

COUNCIL OF THE DISTRICT OF COLUMBIA

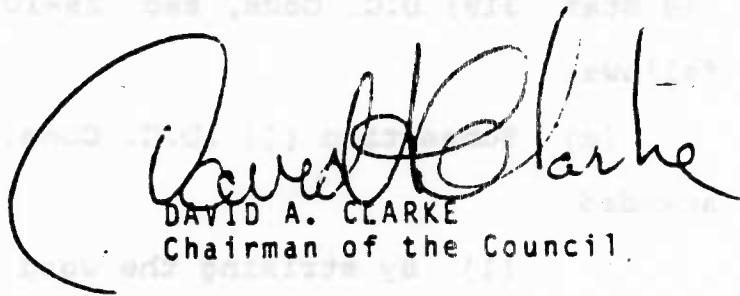
NOTICE

D.C. LAW 6-217

"D.C. Alcoholic Beverage Control Act Reform  
Amendment Act of 1986".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-504 on first and second readings, November 25, 1986 and December 16, 1986, respectively. Following the signature of the Mayor on January 15, 1987, this legislation was assigned Act No. 6-277, published in the February 6, 1987, edition of the D.C. Register, (Vol. 34 page 907) and transmitted to Congress on January 21, 1987 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-217, effective March 7, 1987.



DAVID A. CLARKE  
Chairman of the Council.

Dates Counted During the 30-day Congressional Review Period:

January 21, 22, 23, 26, 27, 28, 29, 30

February 2, 3, 4, 5, 6, 9, 10, 11, 17, 18, 19, 20, 23, 24, 25, 26, 27

March 2, 3, 4, 5, 6

D.C. LAW 6-217

EFFECTIVE DATE MAR 07 1987

AN ACT

D.C. ACT 6-277

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 15 1987

To amend the District of Columbia Alcoholic Beverage Control Act to reform and modernize the licensing and regulation of the sale of alcoholic beverages in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the "District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986".

Sec. 2. Section 3 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934

D.C. Code, sec. 25-103 (1987  
supp.)

(48 Stat. 319; D.C. Code, sec. 25-103), is amended as follows:

(a) Subsection (j) (D.C. Code, sec. 25-103(10)) is amended:

(1) By striking the word "meals" wherever it appears and inserting the word "food" in its place, correcting the verb form accordingly; and

(2) After the words "a place for preparing, cooking, and serving", by striking the remainder of the

sentence and inserting in its place the words "food, and that the sale of food accounts for at least 45% of gross annual receipts from the operation of the dining room.".

(b) A new subsection (j-1) is added to read as follows:

"(j-1) The word 'food' means any substance consumed by human beings except alcoholic beverages and any nonalcoholic liquid or solid substance served as part of the contents of an alcoholic beverage drink".

(c) Subsection (l) (D.C. Code, sec. 25-103(12)) is repealed.

(d) Subsection (n) (D.C. Code, sec. 25-103(14)), is amended:

(1) By striking the word "meals" wherever it appears and inserting the word "food" in its place, correcting the verb form accordingly; and

(2) After the words "a place for preparing, cooking, and serving", by striking the remainder of the sentence and inserting in its place the words "food, and that the sale of food accounts for at least 45% of gross annual receipts of the place.".

(e) Subsection (q) (D.C. Code, sec. 25-103(17)) is amended to read as follows:

"(q) The word 'tavern' means a suitable space in a suitable building approved by the Board, including suitable

space outside of the building and adjoining it, as may be approved by the Board, kept, used, maintained, advertised, or held out to the public to be a place where food and alcoholic beverages are served. A tavern shall not be a place that provides facilities for dancing for its employees or entertainers.".

"(f) New subsections (v), (w), (x), and (y) are added, to read as follows:

"(v) The words 'gross annual receipts' mean the total amount of money received during the most recent 1-year accounting period for the sale of food and alcoholic beverages, not including the amount received for taxes and gratuities in conjunction with these sales, or charges for entertainment or other services.

"(w) The word 'nightclub' means a suitable space in a suitable building, approved by the Board, including suitable space outside of the building and adjoining it as may be approved by the Board, kept, used, maintained, advertised, or held out to the public to be a place that serves food and alcoholic beverages and provides music and facilities for dancing.

"(x) The phrase '1986 act' means the District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986."

"(y)(1) Except as provided in paragraph (2) of this

subsection, nothing in the definitions in this section shall be construed as prohibiting or restricting a restaurant from offering entertainment or facilities for dancing, or preventing or restricting a tavern from offering entertainment, or preventing or restricting a nightclub from offering food. A licensee who offers food, entertainment, or facilities for dancing may advertise the food, entertainment, or facilities for dancing that are offered, regardless of the kind of license held.".

"(2) No licensed establishment other than a nightclub or a legitimate theater may provide entertainment by nude performers.".

Sec. 3. Section 6 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1984 (48 Stat. 322; D.C. Code, sec. 25-106), is amended to read as follows:

D.C. Code, sec.  
25-106 (1987  
supp.)

"Sec. 6(a). The Board shall administer and enforce the provisions of this act, and rules issued pursuant to this act, related to the importation, distribution, and sale of alcoholic beverages in the District.

"(b) In carrying out its responsibilities, the Board shall:

"(1) Receive and evaluate applications for licenses, transfer of licenses, and renewal of licenses authorized by this act;

"(2) Issue, transfer, and renew licenses to qualified applicants;

"(3) Regularly conduct inspections of the premises, books, and records of all licensees during day and evening hours and, on a reasonable number of occasions without prior notification to the licensee or his employees, for compliance with the requirements of this act and rules issued pursuant to this act;

"(4) Establish procedures to receive and timely respond to complaints from any person alleging a violation of any provision of this act or rules issued pursuant to this act;

"(5) Conduct investigations, on its own initiative or on the basis of valid complaints, to identify violations of this act or rules issued pursuant to this act;

"(6) Suspend or revoke licenses, accept an offer of compromise instead of suspension, and impose civil fines as authorized by this act and rules issued pursuant to this act;

"(7) Refer evidence of criminal misconduct to the Corporation Counsel or the United States Attorney for the District of Columbia for investigation and prosecution; and

"(8) Keep complete and accurate records of all licensure actions, and maintain these records in a manner readily accessible for inspection by the public during

normal business hours.

"(c)(1) The Board shall conduct hearings on any matter properly within its jurisdiction in accordance with section 109 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509).

"(2) The Board, in the course of conducting hearings, may administer oaths, examine witnesses, and issue subpoenas to compel the attendance and testimony of witnesses and the production of books, records, and other documents as the Board may consider necessary in carrying out its duties. In the case of contumacy or refusal to obey a subpoena, the Superior Court of the District of Columbia, upon written request by the Board, shall issue an order requiring the contumacious person to appear and testify before the Board, or to produce evidence if so ordered. Any person who fails to obey an order of the Superior Court of the District of Columbia shall be subject to punishment for contempt.

"(3)(a) Subpoenas issued by the Board may be served:

"(1) By an officer of the Metropolitan Police Department;

"(2) By a special process server, at least 18 years of age, designated by the Board from among the staff

appointed by the Board who are not directly involved in the investigation; and

"(3) By a special process server, at least 18 years of age, engaged by the Board for this purpose.

(b) Witnesses, other than those employed by the District or by the United States, shall be entitled to the same fees as are paid witnesses for attendance before the Superior Court of the District of Columbia.

(c) Any person who shall willfully swear falsely in any proceeding or hearing before the Board shall be deemed guilty of perjury.

"(4) The Board shall issue written decisions and orders no later than 120 days following hearings, and shall publish and maintain a compilation of its decisions and orders.

"(d) All hearings held and all meetings at which official action is taken by the Board shall be open to the public. The Board shall take reasonable steps to facilitate coverage of its meetings and hearings by the news media.

"(e) A majority of the members of the Board shall constitute a quorum for the purpose of conducting hearings and taking official actions.

"(f) The action of the Board on any question of fact shall be final and conclusive, except in cases subject to review by the Mayor as provided in section 17.

"(g) The Board shall carry out any other powers and duties that the Council may assign to it by law."

Sec. 4. Section 7 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 322; D.C. Code, sec. 25-107) is amended by adding a new subsection (e) to read as follows:

"(e)(1) The Mayor is authorized to submit to the Council proposed rules to implement the 1986 act, if he or she determines that rules in addition to those contained in the 1986 act are necessary. Rules proposed by the Mayor pursuant to this paragraph shall be submitted no later than 120 days from the effective date of the 1986 act for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. The Council, by resolution, may approve or disapprove the proposed rules in whole or in part. The rules shall take effect upon approval by the Council, or upon expiration of the 45-day review period, whichever occurs 1st.

"(2) In addition to rules proposed pursuant to paragraph (1) of this subsection, the Mayor from time to time may submit to the Council proposed rules to implement any of the provisions of this act for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. Notwithstanding any other provision of law other than this act, the Mayor additionally may propose

D.C. Code, sec.  
25-107 (1987  
supp.)

rules regarding the hours of service of food at establishments licensed pursuant to this act. The Council, by resolution, may approve or disapprove the proposed rules in whole or in part. The rules shall take effect upon approval by the Council, or upon expiration of the 45-day review period, whichever occurs 1st.".

Sec. 5. Section 11 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 324; D.C. Code, sec. 25-111), is amended as follows:

D.C. Code, sec.  
25-111 (1987  
supp.)

(a) In the 1st sentence, the word "twelve" is deleted, and the numeral "21" is inserted in its place.

(b) Subsection (a) (D.C. Code, sec. 25-111(a)(1)) is amended by striking the figure "\$5,775" each place it appears and inserting in its place the figure "\$6,000"; by striking the figure "\$1,650" and inserting in its place the figure "\$3,000", and by striking the figure "\$825" and inserting in its place the figure "\$1,500".

(c) Subsection (b) (D.C. Code, sec. 25-111(a)(2)) is amended by striking the figure "\$4,125" and inserting in its place the figure "\$5,000".

(d) Subsection (c) (D.C. Code, sec. 25-111(a)(3)) is amended by striking the figure "\$3,713" and inserting in its place the figure "\$4,000".

(e) Subsection (d) (D.C. Code, sec. 25-111(a)(4)) is

amended by striking the figure "\$1,875" and inserting in its place the figure "\$2,000".

(f) Subsection (e) (D.C. Code, sec. 25-111(a)(5)) is amended by striking the figure "\$1,875" and inserting in its place the figure "\$2,000".

(g) Subsection (f) (D.C. Code, sec. 25-111(a)(6)) is amended by striking the figure "\$248" and inserting in its place the figure "\$1,000".

(h) Subsection (g) (D.C. Code, sec. 25-111(a)(7)) is amended to read as follows:

"(g)(1) Retailer's licenses, class C -- A retailer's license, class C authorizes the holder to keep for sale and to sell spirits, wine, and beer at the premises described on the license for consumption only on these premises. All alcoholic beverages offered for sale or sold by the licensee may be displayed and dispensed in full sight of the purchaser.

"(2) There shall be 5 kinds of retailer's licenses, class C, each of which shall designate the type of establishment holding the license.

"(3) A retailer's license, class C/R shall be issued only for a bona fide restaurant that keeps its kitchen facilities open until 2 hours prior to closing.

"(4) A retailer's license, class C/T shall be issued only for a tavern.

"(5) A retailer's license, class C/N shall be issued only for a nightclub.

"(6) A retailer's license, class C/H shall be issued only for a hotel. The license authorizes the sale and service of alcoholic beverages for consumption in the dining rooms, lounges, banquet halls, and other similar facilities on the licensed premises, and in the private rooms of registered guests. The license shall not authorize the sale and service of alcoholic beverages for consumption in a nightclub on the premises of the hotel. The holder of a retailer's license, class C/H may also be issued a retailer's license, class C/N for a nightclub on the premises of the hotel.

"(7)(A) A retailer's license, class C/X shall be issued only for a club, a legitimate theater, the Washington Convention Center, a passenger-carrying marine vessel serving food, or a club car or dining car on a railroad.

"(B) No license shall be issued for a club that has not been established for at least 3 months immediately prior to applying for the license.

"(C) Any company operating a railroad in interstate commerce of 100 miles or more may be issued a single license covering all of the railroad's dining cars and club cars. The license shall identify the railroad dining cars and club cars covered by the license, and shall

be kept on display at the licensee's principal place of business in the District.

"(D) Any company operating a passenger-carrying marine vessel line in the District may be issued a single license covering all of its passenger-carrying marine vessels serving food and dockside waiting areas for its passengers. The license shall identify the passenger-carrying marine vessels and dockside waiting areas covered by the license, and shall be kept on display at the licensee's principal place of business in the District. A license issued pursuant to this subparagraph shall not cover any permanently berthed vessel.

"(8) The holders of any kind of retailer's licenses, class C shall not sell or serve alcoholic beverages in any closed container, except that hotels may sell and serve alcoholic beverages in closed containers in the private rooms of registered guests and clubs may sell and serve alcoholic beverages in closed containers in any room or area available only to bona fide members of the club or their guests.

"(9) Annual fees for retailer's licenses, class C, shall be charged according to the following schedule, except that the Mayor shall establish the fee for the Washington Convention Center. Capacity shall be the posted level of occupancy approved pursuant to the Construction Codes for

the District. The fees shall be as follows:

<u>Class</u>	<u>Capacity</u>	<u>Fee</u>
C/R, restaurant.....	99 or fewer.....	\$500
C/R, restaurant.....	100 to 199.....	1,000
C/R, restaurant.....	200 to 499.....	1,500
C/R, restaurant.....	500 or more.....	2,000
C/T, tavern.....	99 or fewer.....	800
C/T, tavern.....	100 to 199.....	1,600
C/T, tavern.....	200 or more.....	2,400
C/N, nightclub.....	199 or fewer.....	1,500
C/N, nightclub.....	200 to 499.....	2,500
C/N, nightclub.....	500 to 999.....	3,500
C/N, nightclub.....	1,000 or more.....	4,500
C/H, hotel.....	99 or fewer guest rooms.....	2,000
C/H, hotel.....	100 or more guest rooms.....	4,000
C/X, club.....		1,000
C/X, legitimate theater.....		1,000
C/X, marine vessel, single vessel.....		1,500
C/X, marine vessel line, for 3 or fewer vessels and dockside waiting areas.....		2,500
for each additional vessel or dockside waiting area.....		1,000
C/X, railroad dining or club car, single car..	500	
C/X, railroad company, all dining or club cars	1,500."	

(i) Subsection (h) (D.C. Code, sec. 25-111(a)(8)) is amended to read as follows:

"(h)(1) Retailer's licenses, class D -- A retailer's license, class D authorizes the holder to keep for sale and to sell wine and beer on the premises described on the license for consumption only on these premises. All alcoholic beverages offered for sale or sold by the licensee may be displayed and dispensed in full sight of the purchaser.

"(2) There shall be 5 kinds of retailer's licenses, class D, each of which shall designate the type of establishment holding the license.

"(3) A retailer's license, class D/R shall be issued only for a bona fide restaurant.

"(4) A retailer's license, class D/T shall be issued only for a tavern.

"(5) A retailer's license, class D/N shall be issued only for a nightclub.

"(6) A retailer's license, class D/H shall be issued only for a hotel. The license authorizes the sale and service of wine and beer for consumption in the dining rooms, lounges, banquet halls, and other similar facilities on the licensed premises, and in the private rooms of registered guests. The license shall not authorize the sale and service of wine and beer for consumption in a nightclub on the premises of the hotel. The holder of a retailer's license, class D/H may also be issued a retailer's license, class D/N for a nightclub on the premises of the hotel.

"(7)(A) A retailer's license, class D/X shall be issued only for a club, a legitimate theater, the Washington Convention Center, a passenger-carrying marine vessel serving food, or a club car or dining car on a railroad.

"(B) No license shall be issued for a club that has not been established for at least 3 months

immediately prior to applying for the license.

"(C) Any company operating a railroad in interstate commerce of 100 miles or more may be issued a single license covering all of the railroad's dining cars and club cars. The license shall identify the railroad dining cars and club cars covered by the license, and shall be kept on display at the licensee's principal place of business in the District.

"(D) Any company operating a passenger-carrying marine vessel line in the District may be issued a single license covering all of its passenger-carrying marine vessels serving food and dockside waiting areas for its passengers. The license shall identify the passenger-carrying marine vessels and dockside waiting areas covered by the license, and shall be kept on display at the licensee's principal place of business in the District of Columbia. A license issued pursuant to this subparagraph shall not cover any permanently berthed vessel.

"(8) The holders of any type of retailer's licenses, class D shall not sell or serve wine or beer in any closed container, except that hotels may sell and serve wine or beer in closed containers in the private rooms of registered guests and clubs may sell and serve wine or beer in closed containers in any room or area available only to bona fide members of the club or their guests.

"(9) Annual fees for retailer's licenses, class D, shall be charged according to the following schedule, except that the Mayor shall establish the fee for the Washington Convention Center. Capacity shall be the posted level of occupancy approved pursuant to the Construction Codes for the District. The fees shall be as follows:

<u>Class</u>	<u>Capacity</u>	<u>Fee</u>
D/R, restaurant.....	99 or fewer.....	\$ 300
D/R, restaurant.....	100 to 199.....	600
D/R, restaurant.....	200 to 499.....	900
D/R, restaurant.....	500 or more.....	1,200
D/T, tavern.....	99 or fewer.....	500
D/T, tavern.....	100 to 199.....	1,000
D/T, tavern.....	200 or more.....	1,500
D/N, nightclub.....	199 or fewer.....	1,000
D/N, nightclub.....	200 to 499.....	1,500
D/N, nightclub.....	500 to 999.....	2,000
D/N, nightclub.....	1,000 or more.....	3,500
D/H, hotel.....	99 or fewer guest rooms.....	1,000
D/H, hotel.....	100 or more guest rooms.....	2,000
D/X, club.....		500
D/X, legitimate theater.....		500
D/X, marine vessel, single vessel.....		750
D/X, marine vessel line, for 3 or fewer vessels and dockside waiting areas.....		1,000
for each additional vessel or dockside waiting area.....		500
D/X, railroad dining or club car, single car...	250	
D/X, railroad company, all dining or club cars	750.	".

(j) Subsection (i) (D.C. Code, sec. 25-111(a)(9)) is amended by striking the figure "\$40" and inserting in its place the figure "\$100".

(k) Subsection (j) (D.C. Code, sec. 25-111(a)(10)) is

amended by striking the figure "\$50" and inserting in its place the figure "\$100".

(1) Subsection (k) (D.C. Code, sec. 25-111(a)(11)) is amended by striking the figure "\$150" and inserting in its place the figure "\$250".

(m) Subsection (l) (D.C. Code, sec. 25-111(a)(12)) is amended by striking the figure "\$150" and inserting in its place the figure "\$400".

(n) New subsections (m-1), (m-2), and (m-3) are added to read as follows:

"(m-1) The Mayor may propose rules to alter the license fees established by this section. Proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. The Council, by resolution, may approve or disapprove the proposed rules in whole or in part. The rules shall take effect upon approval by the Council, or upon expiration of the 45-day review period, whichever occurs 1st.

"(m-2) None of the provisions of the 1986 act shall be construed as providing grounds for canceling or voiding any lease or contract entered into in good faith, prior to the effective date of the 1986 act, by the holder of a license that was issued prior to the effective date of the 1986 act who applies for a license in a category not established

prior to enactment of the 1986 act.

"(m-3) The holder of a retailer's license, class C/R, C/H, D/R, or D/H shall file with the Board quarterly statements, on the dates and in the manner prescribed by the Board, to show for the preceding quarter the total amount of receipts at the licensed establishment, the amount received for the sale of alcoholic beverages, the amount received for the sale of food, the total amount expended by the establishment for the purchase of food and alcoholic beverages, the amount expended for the purchase of food, and the amount expended for the purchase of alcoholic beverages.".

Sec. 6. Section 18 of An Act to amend the District of Columbia Alcoholic Beverage Control Act, approved August 27, 1935 (49 Stat. 903; D.C. Code, sec. 25-112, 1987 supp.) is amended:

(a) In the 1st sentence, by striking the phrase "C, D," and inserting in its place, the phrase "C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, D/X,"; and

(b) By adding at the end, a new sentence to read as follows:

"The Mayor, by rule, may establish fees for importation permits in accordance with the provisions of section 11(m-1).".

Sec. 7. Section 12(b) of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934

D.C. Code, sec. 25-113 (1987 supp.)

(48 Stat. 327; D.C. Code, sec. 25-113(b)), is amended, in the 1st sentence:

(a) By striking the phrase "class C or class D" and inserting in its place the phrase "class C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, or D/X"; and

(b) By striking the phrase "class C, class D" and inserting in its place the phrase "class C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, D/X".

Sec. 8. Section 13 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934

D.C. Code, se  
25-114 (1987  
supp.)

(48 Stat. 327; D.C. Code, sec. 25-114), is amended to read as follows:

"Sec. 13. (a) Except as provided in subsections (c) and (d) of this section, licenses issued pursuant to this act shall be for terms of 2 years, and may be renewed.

"(b) License fees shall be charged and collected annually. The fee for the 1st year shall be paid at the time of application, and the fee for the 2nd year shall be paid no later than 1 year from the date of issuance of the license. A licensee's failure to timely remit the 2nd-year fee shall be grounds for the Board to suspend the license until the licensee pays the fee and any fines imposed by the Board for late payment.

"(c) The Board may establish licensure periods at intervals necessary to facilitate efficient processing of

applications. Each license shall begin and end on dates established by the Board. Whenever the Board changes a licensure period, the applicant for the license shall pay the appropriate proportionate amount of the annual license fee. Whenever the Board issues a license at other than the established date, the licensee shall pay the appropriate proportionate amount of the annual fee.

"(d) Temporary retailer's licenses, class F shall be issued for periods specified by the Board. Retailer's licenses, class G shall be issued for 1 day only, for a date specified by the Board.

"(e) Each license shall particularly describe the place where the rights of the license are to be exercised. Alcoholic beverages shall not be manufactured, kept for sale, or sold by any licensee on premises other than the premises designated on the license, except as provided in subsection (f) of this section.

"(f) The Board may permit the storing of beverages upon premises other than the premises designated in the license by the holder of a (1) manufacturer's license; (2) a wholesaler's license; (3) a retailer's license, class A; or (4) a retailer's license, class C/X or class D/X issued for a passenger-carrying marine vessel or vessel line or for a railroad club car or dining car or a railroad company. No licensee may store beverages upon premises outside the

District, except that licensed wholesalers permitted by the Board to store beverages outside the District as of January 1, 1986, may continue to do so until July 27, 1988.".

Sec. 9. Section 14 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 327; D.C. Code, sec. 25-115), is amended to read as follows:

D.C. Code, sec.  
25-115 (1987  
supp.)

"Sec. 14. (a)(1) Any individual, partnership, or corporation applying for issuance, transfer, or renewal of a license shall file with the Board an application in the form prescribed by the Mayor. The application shall contain the information set forth in paragraph (2) of this subsection and any additional information the Board may require.

"(2) Each application shall contain:

"(A) In the case of an individual applicant, the name and address of the individual; in the case of a partnership applicant, the names and addresses of each member of the partnership; and in the case of a corporation applicant, the names and addresses of each of the corporation's principal officers, and its stockholders holding 25% or more of its common stock;

"(B) The name and address of the true and actual owner of the establishment for which the license is sought and the property where it is located, except that this requirement shall not apply to applicants for a

solicitor's license or a retailer's license, class E;

"(C) The class of license sought;

"(D) The address of the establishment for which the license is sought;

"(E) The proximity of the establishment to the nearest public, private, or parochial elementary, junior high, or high school;

"(F) The size and design of the establishment for which the license is sought; and

"(G) A detailed description of the nature of the operation proposed, including but not limited to, the following:

"(i) The type of food to be offered, if any;

"(ii) The type of entertainment to be offered, if any;

"(iii) The goods and services to be offered for sale, in addition to alcoholic beverages, if any; and

"(iv) The hours of operation.

"(3) Before making a substantial change in the nature of operation of the licensed establishment, a licensee shall file with the Board an amendment to the information provided on the application pursuant to paragraph (2)(G) of this subsection. If the Board determines that the change is substantial, it shall provide notice of the licensee's amended filing to the same persons

and in the same manner required for license renewal applications as set forth in subsection (c)(1) and (2) of this section, and it shall require the licensee to make a showing of appropriateness as set forth in subsection (b) of this section. If the applicant fails to demonstrate that the proposed change in the nature of operation is appropriate for the locality, section, or portion of the District where the establishment is located, the Board shall disapprove the proposed change. Before enforcing this subsection, the Mayor shall promulgate rules, in accordance with section 7, setting forth the specific changes in the nature of the operation of a licensed establishment that shall require amendment of a license application in accordance with this subsection.

"(b)(1) To qualify for issuance, transfer, or renewal of a license, an applicant shall demonstrate to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located. If no objection to the appropriateness of the application is filed, the establishment for which the license is sought shall be presumed to be appropriate for the locality, section, or portion of the District where it is to be located. In determining whether an establishment is appropriate, the Board shall consider all relevant

evidence of record; including:

"(A) The effect of the establishment on real property values;

"(B) The effect of the establishment on peace, order, and quiet;

"(C) The effect of the establishment upon residential parking needs and vehicular and pedestrian safety;

"(D) Employment opportunities for residents of the District generated by the establishment;

"(E) Contributions of the establishment to the cultural vitality of the District;

"(F) Contributions of the establishment to the economic vitality of the District; and

"(G) The length of time the establishment has held a license for that location and the licensee's record of compliance with the provisions of the act and the rules promulgated under the act during that time.

"(2) In determining whether an establishment is appropriate for initial issuance of a license or whether the transfer of an existing license to a new location is appropriate, the Board shall consider also the following conditions:

"(A) The proximity of the establishment to schools, recreation centers, day care centers, public

libraries, or other similar facilities;

"(B) In the case of applications for retailer's licenses, class C/N or class D/N, whether the proximity of the establishment to a residence district, as identified in the Zoning Regulations of the District of Columbia and shown in the official atlases of the Zoning Commission for the District of Columbia, would generate a substantial adverse impact on the residents of the residence district; and

"(C) Whether issuance of the license would create or contribute to an overconcentration of licensed establishments, likely to adversely affect the locality, section, or portion in which the establishment is located.

"(3)(A) The Board shall identify the boundaries of the locality, section, or portion of the District of Columbia to apply in determining the appropriateness of each application. In general, a locality shall be the immediate neighborhood of the establishment, a section shall be an area larger than the immediate neighborhood, and a portion shall be an area larger than a section. The Board shall determine, on a case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.

"(B) In submitting evidence of appropriateness, the applicant shall propose the boundaries of the locality, section, or portion to be considered. Any person may submit written objections to the boundaries proposed by the applicant, or may submit a written proposal listing alternative boundaries for consideration by the Board.

"(4) The requirements of this subsection shall not apply to applicants for a solicitor's license or for a retailer's license, class E, class F, or class G.

"(c)(1) Prior to acting on applications for issuance or renewal of retailer's licenses, class A, B, C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, D/X, and consumption licenses for clubs, or for transfer of a license of any of these classes to a different location, the Board, at least 45 calendar days prior to a hearing, shall give notice of an application to the Council, the Board of Education of the District of Columbia ("Board of Education"), and the Advisory Neighborhood Commission representing the area in which the establishment is located. The notices shall contain the name of the applicant, the street address of the establishment for which the license is sought, the class of license sought, and a description of the nature of the operation the applicant has proposed. The notice to the Board of Education shall state the proximity of the

establishment to the nearest public school of the District. The notices shall state that persons objecting to approval of the application are entitled to be heard before the granting of the license, and shall name the time and place of the hearing.

"(2) The applicant shall post 2 notices of the application in conspicuous places on the outside of the premises for 45 days prior to a hearing. The notices shall provide the same information required by paragraph (1) of this subsection. Any person willfully removing, obliterating, or defacing the notices shall be guilty of a violation of this act. An applicant who fails to maintain the posted notices continuously for the 45-day period shall be guilty of a violation of this act.

"(3) In the case of applications for new licenses in any of the classes listed in paragraph (1) of this subsection, the Board additionally shall give notice by advertisements published once a week during the 45-day period prior to a hearing in a newspaper of general circulation published in the District. The applicant shall pay the fee for the advertisements at the time of application. The advertisements shall contain the same information required by paragraph (1) of this subsection.

"(4) Any person objecting to approval of an application shall notify the Board in writing of his

intention to object and the grounds for the objection at least 15 business days prior to the date of the hearing.

"(5) No application shall be approved until objectors have been afforded an opportunity to be heard in accordance with rules and procedures adopted by the Board.

"(d) Notwithstanding any other provision of this act, the Board shall deny a license if the evidence reasonably shows that:

"(1) The establishment for which the license is sought is in violation of 1 or more of the Construction Codes for the District of Columbia, or any other law or rule of the District intended to protect public safety;

"(2) The applicant has knowingly permitted, at the place for which the license is sought, the illegal sale, or negotiations for sale, or the use, of any controlled substance in violation of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code, sec. 33-501 et seq.) ('CSA'), or the possession or sale, or negotiations for sale, of drug paraphernalia in violation of the CSA or the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Code, sec. 33-601 et seq.).

Successive sales, or negotiations for sale, over a continuous period of time amounting to a recognizable pattern of activity shall be deemed evidence of knowing

permission; or

"(3) The applicant has permitted, at the place for which the license is sought, conduct in violation of section 504 of the Alcoholic Beverages and Food Regulations of the District of Columbia (23 DCMR 504).

"(e)(1) Notwithstanding any other provision of this act, the Board shall deny an application for a new license, a change of license class, or transfer of a license to a different location upon receiving valid written objections from the majority of registered voters residing within a 600-foot radius of the establishment for which the license is sought, except that any person who holds a license issued pursuant to this act shall be ineligible to object and shall not be counted in calculating a majority. When any part of a parcel or lot falls within the 600-foot radius, the registered voters residing on it shall be entitled to object. A majority shall be more than half of the total number of registered voters within the radius, with each person entitled to 1 vote of objection. For the purposes of this subsection, a "registered voter" shall mean any person who was registered to vote in the District on the date of the license application that is the subject of the objection, and who is listed on the voter registration rolls as a resident of an address within the 600-foot radius.

"(2) Written objections shall be submitted on

petition forms prescribed by the Board by rule in accordance with the provisions of section 7(e) and shall be signed by the objectors.

"(3) To initiate the petition process, any eligible objector shall submit to the Board a petition proposal and a statement of no more than 100 words identifying the basis for the objection. The eligible objector shall at the same time submit the petition proposal and the statement to the Advisory Neighborhood Commission ('ANC') representing the area in which the applicant requests the license. To qualify as valid a petition proposal shall identify as the basis for the objection 1 or more of the conditions set forth in subsection (b)(1) and (b)(2) of this section. Upon receipt of the petition proposal, the ANC shall within 45 calendar days vote upon the merit of the objection. The ANC shall inform the Board and the member of the Council representing the ward in which the ANC is located of the results of the vote. Within 10 business days from the date of receiving the proposed statement, the Board shall determine whether the proposed statement is nondiscriminatory in effect or intent according to the standards established by the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2501 et seq.), and whether it complies with the requirements of this act, rules issued pursuant to this act,

and any other applicable laws and rules of the District. The Board may revise the proposed statement, subject to the consent of the objector, or may request the objector to submit a revised statement. Upon determining that the statement complies with the requirements of this paragraph, the Board shall approve the statement and shall order that the statement and information as to whether the ANC voted in support of, in opposition to, or took no position on the petition proposal be printed on all petition forms circulated to obtain the signatures of eligible objectors. Any petition form that does not contain the required statement, as approved by the Board, shall be inadmissible, and the persons signing an inadmissible form shall not be counted as objecting to the license application.

"(4) Within 30 calendar days from the date of approving the petition statement, the Board shall:

"(A) Notify the applicant of the initiation of the petition process and provide the applicant a copy of the approved petition statement;

"(B) Provide the applicant and the person initiating the petition process with a map and written description of the boundaries of the 600-foot radius surrounding the establishment whose license application is the subject of the petition;

"(C) Provide the applicant and the person

initiating the petition process with a list of the names and addresses of the registered voters residing within the 600-foot radius; and

"(D) Provide written notice of the petition process by first-class mail to each registered voter residing within the 600-foot radius, stating the identity of the applicant, the street address of the applicant's establishment, the class of license sought, the type of establishment and nature of operation proposed, the name and address of the person initiating the petition process, and the content of the petition statement approved by the Board.

"(5) The time period for collecting signatures on a petition shall be 30 calendar days from a date 3 days subsequent to the date the Board completes the notifications required by paragraph (3) of this subsection.

"(6) Upon receiving completed petitions, the Board shall establish a period of 15 calendar days during which the applicant or any other person may challenge the validity of the signatures. The Board shall provide the applicant with timely notification of the challenge period.

"(7) Within 15 days from the date of expiration of the challenge period, the Board shall determine whether the petitions meet the requirements of this subsection and, if so, shall deny the license application.

"(8) The provisions of this subsection shall

apply in the following manner to the initial applications submitted following the effective date of the 1986 act by the holders of retailer's licenses, class C and class D, that were in effect on September 30, 1986:

"(A) The holder of a retailer's license, class C for a restaurant who applies for a retailer's license, class C/R for the same establishment shall be treated as a renewal applicant, and shall not be subject to the petition process.

"(B) The holder of a retailer's license, class C for a hotel who applies for a retailer's license, class C/H for the same establishment shall be treated as a renewal applicant and shall not be subject to the petition process.

"(C) The holder of a retailer's license, class D for a restaurant who applies for a retailer's license, class D/R for a restaurant for the same establishment shall be treated as a renewal applicant, and shall not be subject to the petition process.

"(D) The holder of a retailer's license, class D for a tavern who applies for a retailer's license, class D/T for the same establishment shall be treated as a renewal applicant, and shall not be subject to the petition process.

"(E) The holder of a retailer's license,

class C for a restaurant who applies for a retailer's license, class C/T, C/N, D/T, or D/N shall be treated as a new applicant subject to the petition process.

"(F) The holder of a retailer's license, class D for a tavern who applies for a retailer's license, class C/R, C/T, C/N, D/R, or D/N shall be treated as a new applicant subject to the petition process.

"(9)(A) In the case of an applicant identified in paragraph (8)(E) or (F) of this subsection, there shall be a presumption that a majority of the registered voters residing within 600-foot radius of the establishment for which the license is sought do not object to the license and the Board shall deny a petition proposal if:

"(i) The applicant has been licensed and in operation at that location for 5 years or longer;

"(ii) The applicant has not illegally altered the nature of operation during the period of operation;

"(iii) The applicant does not have a record of consistent and repeated violations of the laws or regulations of the District;

"(iv) The establishment has not been the subject of repeated citations by any agency of the District; and

"(v) There was no meritorious challenge

of a license application for the establishment pending before the Board on November 7, 1986.

"(B) Before denying a petition proposal pursuant to this paragraph, the Board shall provide the ANC that considered the petition proposal and the person initiating the petition process an opportunity to submit evidence regarding the 5 conditions listed in subparagraph (A) of this paragraph and shall not deny the petition proposal if there is substantial evidence to show that any 1 of the 5 conditions is not true.

"(10) The provisions of this subsection shall not apply to applications for a solicitor's license; for a retailer's license, class E, class F, or class G; for a retailer's license, class C/X for a club; or for a consumption license for a club.

"(11) In the case of property within the 600-foot radius that is owned by the District, the Mayor may object on behalf of the District. In the case of property within the 600-foot radius that is owned by the United States, the designated custodian of the property may object on behalf of the United States.

"(f) In establishing any geographic boundaries required by this act, the Board shall measure the specified distance in an arc from each corner of the lot or parcel on which the licensed establishment is located, connecting the

arcs by tangent lines.

"(g)(1) Before issuing, transferring, or renewing a license, the Board shall determine that:

"(A) The individual applicant, each member of an applicant partnership, or each of the principal officers, directors, and stockholders of an applicant corporation is of good moral character and generally fit for the responsibilities of licensure, except that no stockholder of an applicant corporation as of the effective date of the District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986 shall be disqualified by virtue of conviction of a felony or misdemeanor prior to the effective date of the District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986;

"(B) The individual applicant, or each member of an applicant partnership, or each of the principal officers, directors, and stockholders of an applicant corporation is at least 21 years old, has not been convicted of any felony in the 10 years prior to filing the application, and has not been convicted of any misdemeanor bearing on fitness for licensure in the 5 years prior to filing the application, except that no stockholder of an applicant corporation as of the effective date of the District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986 shall be disqualified by virtue of

conviction of a felony or misdemeanor prior to the effective date of the District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986;

"(C) Except in the case of an application for a solicitor's license, the applicant is the true and actual owner of the business establishment for which the license is sought, and that he or she intends to carry on the business for himself or herself and not as the agent of any other individual, partnership, association, or corporation not identified in the application, and that the licensed establishment will be managed by the applicant in person or by a manager approved by the Board; and

"(D) The applicant has complied with all other requirements of this act and rules issued pursuant to this act.

"(2) In the case of an application for a wholesaler's license or for a retailer's license of any class, except class E, F, or G, the Board shall further determine prior to issuing, transferring, or renewing a license that:

"(A) No manufacturer of alcoholic beverages, no wholesaler of alcoholic beverages other than the applicant, no stockholder holding 25% or more of the common stock of a manufacturer or wholesaler, and no officer of a manufacturer or wholesaler corporation has such a

substantial interest, direct or indirect, in the business for which the license is sought or in the premises where it is to be operated that the applicant, in the judgement of the Board, would be influenced to purchase alcoholic beverages from the manufacturer or wholesaler; and

"(B) The business for which the license is sought has not been and will not be conducted with any money, equipment, furniture, fixtures, or property rented from or loaned or given by any manufacturer, any wholesaler other than the applicant, any stockholder holding 25% or more of the common stock of a manufacturer or wholesaler, or any officer of a manufacturer or wholesaler corporation, or sold by any manufacturer, wholesaler, or officer to the applicant for less than the fair market value or upon a conditional sale agreement or chattel trust.

"(3) In the case of an application for renewal of a retailer's license, class C/R, C/H, D/R, or D/H, the Board shall further determine prior to renewing a license that the sale of food has accounted for at least 45% of gross annual receipts from the operation of the restaurant or of the dining room of the hotel during the current license period. In the case of an application for a new license, transfer of a license to a different location, or transfer to new ownership of a license for an establishment not in operation at the time of the application, the Board shall determine

prior to approving the application that the applicant has presented evidence establishing a reasonable probability that the sale of food will account for at least 45% of gross annual receipts from the operation of the restaurant or of the dining room of the hotel during each year of the license period. In the case of an application to transfer to new ownership the license of an establishment that is in operation at the time of the application and has been in continuous operation since its license was most recently issued or renewed, the determination required by this paragraph shall not apply.

"(h)(1) Notwithstanding the provisions of subsection (g)(3) of this section, the holder of a retailer's license, class C or class D, issued for a restaurant or a tavern prior to the effective date of the 1986 act and in effect on September 30, 1986, shall be exempt from the requirement that the sale of food shall account for at least 45% of gross annual receipts if:

"(A) The licensee applies for a retailer's license, class C/R or D/R within 30 days after the effective date of rules issued pursuant to section 7(e)(1) to implement the 1986 act;

"(B) The licensee submits financial records, in the manner prescribed by the Board, to show the percentage of gross annual receipts generated by the sale of food

during the period of the license in effect on September 30, 1986;

"(C) The licensee submits a statement of intention to operate the licensed establishment as a bona fide restaurant, and a description of plans to achieve 45% of gross annual receipts from the sale of food within 3 years.

"(2) If the applicant complies with the requirements of paragraph (1) of this subsection, and otherwise qualifies for licensure, the Board shall issue the applicant a retailer's license, class C/R or D/R for a term of 1 year.

"(3) The Board shall review the license annually and may extend the exemption for 2 succeeding 1-year terms if it determines that the licensee has sufficiently increased the percentage of gross annual receipts generated by the sale of food. The Board shall base its determination on an examination of the quarterly reports filed by the licensee pursuant to section 11(m-3) and any other books and records kept by the licensee that the Board considers necessary.

"(4) Whenever a licensee who was the holder of a retailer's license, class C, that was in effect on September 30, 1986, and who is issued a retailer's license, class C/R or D/R, pursuant to this subsection, has not achieved 45% of

gross annual receipts from the sale of food at the end of the 3-year period of the exemption, the licensee may apply for a retailer's license, class C/T, C/N, D/T, or D/N. If the application becomes the subject of the petition process authorized by subsection (e) of this section, the Board shall require the signatures of 60% of the eligible objectors within the 600-foot radius in order to deny the application on the basis of the petition process.".

"(i) Whenever an application for license renewal is made the subject of contested proceedings, and the license expires prior to the Board's decision on the renewal application, the Board may enter an order extending the expiration date during the pendency of proceedings on the renewal application. The Board may also enter an order extending the expiration date of any license that expired on September 30, 1986, for no more than 120 days after the Mayor has issued any necessary final rules pursuant to section 7(e)(1).

"(j)(1) A separate application shall be filed for each establishment for which a license is sought, except that a railroad company may file 1 application for all of its dining cars and club cars, and a passenger-carrying marine vessel line may file 1 application for all of its passenger-carrying marine vessels and dockside waiting areas.

"(2) Each applicant shall pay the required license fee to the D.C. Treasurer, and the applicant's duplicate receipt shall accompany the application for license. If the license is denied, the fee shall be returned.

"(3) Each application shall be verified by the affidavit of the applicant individual, by all of the members of an applicant partnership, or by the president or vice president of an applicant corporation. Any person who knowingly makes a false statement on an application, or in any accompanying statement under oath that the Mayor or the Board may require, shall be deemed guilty of the offense of making false statements. The making of a false statement, whether made with or without the knowledge or consent of the applicant, shall, in the discretion of the Board, constitute sufficient cause for denial of the application or revocation of the license.".

Sec. 10. Section 15 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934

D.C. Code, sec. 25-116 (1987 supp.)

(48. Stat. 328; D.C. Code, sec. 25-116), is amended by adding a new sentence to read as follows:

"A retailer's license, class C/N or D/N may be issued for a nightclub on the premises of a hotel that was legally located in a residence district and was operating a nightclub, as defined by this act, on the licensed premises

on September 30, 1986."

Sec..11. Section 17 of the District of Columbia  
Alcoholic Beverage Control Act, approved January 24, 1934  
(48 Stat. 330; D.C. Code, sec. 25-118), is amended:

D.C. Code, sec.  
25-118 (1987  
supp.)

(a) By inserting the words "or any other laws, rules  
or regulations of the District" after the word "thereto" in  
the 1st sentence; and

(b) By adding new subsections (c),(d), and (e) to  
read as follows:

"(c) The Board shall revoke the license of any  
licensee who has knowingly permitted, on the licensed  
premises, the illegal sale, or negotiations for sale, or the  
use, of any controlled substance identified in the District  
of Columbia Uniform Controlled Substances Act of 1981,  
effective August 5, 1981 (D.C. Law 4-29; D.C. Code, sec.  
33-501 et seq.) ("CSA"), or the possession or sale, or  
negotiations for sale, of drug paraphernalia in violation of  
the CSA or the Drug Paraphernalia Act of 1982, effective  
September 17, 1982 (D.C. Law 4-149; D.C. Code, sec. 33-601  
et seq.). Successive sales, or negotiations for sale, over  
a continuous period of time amounting to a recognizable  
pattern of activity shall be deemed evidence of knowing  
permission.

"(d) Whenever the Board revokes a license or  
suspends a license for a period of more than 30 days, the

licensee may, within 10 business days after the order of revocation or suspension is entered, submit a written appeal to the Mayor to review the action of the Board. The Mayor may convene a hearing on the appeal, and may review oral or written evidence in accordance with procedures the Mayor may establish by rule. The decision of the Mayor on any question of fact involved in an appeal shall be final and conclusive. Pending the Mayor's decision on an appeal, the Board's order of revocation or suspension shall stand unless the Mayor orders otherwise.

"(e) In accordance with procedures that the Mayor shall establish, the Department of Consumer and Regulatory Affairs and the Fire Department shall promptly notify the Board whenever a licensed establishment is the subject of a citation or other enforcement action for a violation of laws or rules enforced by these departments."

Sec. 12. Section 20 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 331; D.C. Code, sec. 25-121), is amended as follows:

New, D.C. Cod  
sec. 25-121  
(1987 supp.)

(a) By adding a new subsection (b-1) to read as follows:

"(b-1) The holder of a retailer's license, class A shall not permit any person under the age of 18 years to enter the licensed premises between the hours of 8 a.m. and

3 p.m. on any day in which the public schools of the District of Columbia are in session during the regular school year. It shall be an affirmative defense to a charge of violating this subsection that the licensee or his or her employee reasonably believed that the person was 18 years of age or older or was not truant or unlawfully absent from school. This subsection shall not apply to the holder of a retailer's license, class A for a supermarket where the primary purpose is the sale of a full range of fresh, canned, and frozen food items, household products, and sundries, and where the sale of alcoholic beverages is incidental to the primary purpose.";

(b) By striking the phrase "subsection (i)" in subsections (a) and (b) and inserting the phrase "subsections (i) and (j)" in its place; and

(c) By striking the word "chapter" from subsections (i) and (j) and inserting the word "act" in its place.

Sec. 13. Section 25 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 319; D.C. Code, sec. 25-125), is amended by striking the phrase "section 20(i)" and inserting "section 20(i) and (j)" in its place.

D.C. Code, se  
25-125 (1987  
supp.)

Sec. 14. Section 26 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 333; D.C. Code, sec. 25-126), is repealed.

Repealed,  
D.C. Code, se  
25-126 (1987  
supp.)

Sec. 15. Section 35 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934 (48 Stat. 336; D.C. Code, sec. 25-133), is amended by adding a new sentence to read as follows:

"Nothing in this section shall be construed as prohibiting the holder of a retailer's license, class C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, or D/X from accepting payment by credit card for sales of alcoholic beverages to customers.".

Sec. 16. Part I of the Alcoholic Beverages and Food Regulations of the District of Columbia, ordered January 24, 1934 (C.O. (unnumbered); 23 DCMR 100-900), is amended as follows:

(a) The section heading of section 101 is amended to read as follows:

"101 LIMITATION ON LICENSES".

(b) Section 101 is amended by adding new subsections 101.5, 101.6, 101.7, and 101.8 to read as follows:

"101.5 On and after the effective date of this regulation, no retailer's license class A or class B shall be issued or transferred for an establishment that is located four hundred feet (400') or less from the holder of a retailer's license of the same class. This provision shall not apply to the renewal of class A or class B licenses that are in effect on the effective date of this

D.C. Code, sec.  
25-133 (1987  
supp.)

regulation.

"101.6 The Board may, by regulation, limit the number of licenses of any class to be issued, or declare a moratorium on the issuance of licenses of any class, in any locality, section, or portion of the District, when the Board reasonably determines from the evidence that it is in the public interest to do so, based on the appropriateness standards set forth in section 14(b) of the Act.

"101.7 Any individual, civic or citizens' association, Advisory Neighborhood Commission, institution, or business entity may petition the Board to issue regulations establishing the limit or moratorium authorized in subsection 101.6 of this section.

"101.8 Proposed regulations, adopted by the Board pursuant to this section, shall be submitted for Council review in accordance with section 7(e) of the Act.".

(c) Subsection 102.1(a) is amended by striking the phrase "Class C or Class D" and inserting in its place the phrase "Class C/H, C/X, D/H, or D/X".

(d) Subsection 102.1(b) is repealed.

(e) Subsection 102.11 is repealed.

(f) Section 102 is further amended by adding a new subsection 102.13 to read as follows:

"102.13 The Board may issue a retailer's license, class C/R or D/R for a restaurant within four hundred feet

(400') of a public, private, or parochial primary, elementary, or high school if:

"(a) The restaurant is located entirely inside a hotel, apartment house, club, or office building and no sign or display is visible from the outside of the building unless the Board specifically approves the outside sign or display; and

"(b) The Board of Education of the District of Columbia in the case of a public school, or the proper governing body of a private or parochial school, has been notified at least forty-five (45) days in advance of the application for the license and has submitted a written statement to the Board that it has no objection to the issuance of the license.".

(g) New sections 111 and 112 are added to read as follows:

"111 INSTRUCTIONS TO LICENSEES

"111.1 The Board shall develop and furnish to licensees, at the time of issuance of a license, written information describing the laws and rules applicable to the licensee's day-to-day operations.

"112 APPLICABILITY OF REGULATIONS

"112.1 A regulation applying to the holder of a retailer's license, Class C or Class D shall be construed as applying to the holder of any kind of retailer's license

Class C or Class D unless the regulation specifically states otherwise.".

(h) Section 204 is amended by adding a new subsection 204.6 to read as follows:

"204.6 Notwithstanding the requirement of subsection 204.1, an applicant who on September 30, 1986, held a valid retailer's license, class C or D for a restaurant or tavern and whose initial application for a retailer's license, class C/R, C/T, C/N, D/R, D/T, or D/N for the same establishment is denied by the Board pursuant to section 14(b) or (e) of the Act may reapply at any time for a license of the same class at a different location.".

(i) Section 404 is amended by adding a new subsection 404.4 to read as follows:

"404.4 If there is a change in the general partners of a limited partnership or in the limited partnership owning or controlling more than twenty-five percent (25%) of the partnership interest of a limited partnership licensee, the limited partnership shall submit to the Board in a timely manner the instruments reflecting the change in partnership interest.".

(j) Subsection 404.2 is amended by inserting the words "or limited partnership" after the word "corporation", and by inserting the words "or partner in a limited partnership" after the word "director".

(k) Subsection 404.3 is amended by inserting the words "or partner in a limited partnership" after the word "officer".

(l) New sections 412 and 413 are added to read as follows:

"412 CONTROL OF LITTER

"412.1 The holder of a retailer's license class A, B, C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, or D/X shall take reasonable measures to ensure that the immediate environs of the establishment are kept free of litter."

"413 PRICING PRACTICES

"413.1 The holder of a retailer's license, Class C/R or D/R shall not reduce the price of alcoholic beverages and increase the price of food in such a manner as to artificially inflate the percentage of gross annual receipts generated by the sale of food at the licensed establishment.

"413.2 The Board shall review the quarterly reports filed by the licensee pursuant to section 11(m-3) of the Act to determine whether the licensee's receipts, compared to expenditures, show evidence of artificially inflated food prices in violation of subsection 413.1."

(m) Section 503 is amended as follows:

(1) By striking the phrase "under this chapter" from subsection 503.2; and

(2) By amending subsection 503.3 by striking the

period at the end and adding the phrase ", except that a person who has attained 18 years of age before September 30, 1986, may receive and consume beer or light wine.".

(n) Section 504 is amended as follows:

(1) The section heading is amended to read as follows:

"504 SOLICITATION OF DRINKS; PROHIBITED CONDUCT ON LICENSED PREMISES"; and

(2) New subsections 504.3, 504.4, and 504.5 are added to read as follows:

"504.3 No holder of an alcoholic beverage license shall require or permit any entertainer, employee, customer, or other person to do any of the following on its premises:

"(a) Perform or simulate the performance of acts of oral, anal, or vaginal sexual intercourse, masturbation, flagellation, or bestiality; or

"(b) Fondle in an erotic manner the breasts, buttocks, anus, or genitals of any other person.

"504.4 No holder of an alcoholic beverage license shall permit any person who engages in any of the acts prohibited by subsection 504.3 to remain on the licensed premises.

"504.5 The holder of a retailer's license Class C/N or D/N for an establishment located within the boundaries of the Central Business District identified in

the Zoning Regulations of the District of Columbia and shown in the official atlases of the Zoning Commission of the District of Columbia may permit performances by nude dancers who shall perform only upon a stage at least eighteen inches (18") above the immediate floor level and removed at least three feet (3') from the nearest customer. A licensee whose licensed establishment is located outside the Central Business District and who regularly provided entertainment by nude dancers prior to November 25, 1986, may continue to do so at that establishment so long as there is no change in the ownership of the establishment. The holder of a retailer's license, Class C/X or D/X for a legitimate theater may permit nudity by performers in dramatic productions.".

(o) Section 508 is amended to read as follows:

"508 LIMITATIONS ON CONTAINER SIZE

"508.1 The holder of a retailer's license, Class A or Class B shall not sell any beverage in any container that is not in compliance with the authorized standards of fill set forth in the most recent regulations issued pursuant to the Federal Alcohol Administration Act, effective August 29, 1935 (49 Stat. 977; 27 U.S.C., sec. 201 et seq.).".

(p) Section 800 is amended as follows:

(1) Subsection 800.1 is amended to read as

follows:

"800.1 No licensee holding a retailer's license, Class A, B, C/R, C/T, C/N, C/H, C/X, D/R, D/T, D/N, D/H, D/X, or E shall transport, or cause to be transported, into the District any alcoholic beverage, except as provided in this section."; and

(2) Subsection 800.6 is amended by striking the phrase "Class C or D" and inserting in its place the phrase "Class C/X or D/X".

Sec. 17. Part II of the Alcoholic Beverages and Food Regulations, approved July 1, 1964 (23 DCMR 1000), is amended as follows:

(a) Subsection 1002.1 is amended by striking the phrase "thirty (30)" and inserting in its place the phrase "forty-five (45)".

(b) Subsection 1002.3 is amended by striking the phrase "for at least four (4) weeks" and inserting in its place the phrase "during the 45-day period prior to a hearing".

(c) Subsection 1002.4 is amended by striking the phrase "thirty (30)" and inserting in its place the phrase "forty-five (45)".

(d) Subsection 1009 is amended to read as follows:

"1009 DELINEATION OF GEOGRAPHIC BOUNDARIES

"1009.1 In establishing any geographic boundaries

required by the Act, the Board shall measure the specified distance in an arc from each corner of the lot or parcel on which the licensed establishment is located, connecting the arcs by tangent lines.

"1009.2 Whenever a boundary line measured by the Board touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Board.

"1009.3 Upon receipt of an application for a new license, for a change of license class, or for a transfer of a license to a different location, the Board shall promptly delineate the area within a radius of six hundred feet (600') from the establishment for which the license is sought pursuant to section 14(e) of the Act, and the applicant and the Board shall in all advertisements and notices published or posted concerning the application, set forth the boundary lines of the area.

"1009.4 The Board, pursuant to section 14(b) of the Act, shall identify the boundaries of the locality, section, or portion of the District to apply in determining the appropriateness of each application. In general, a locality shall be the immediate neighborhood of the establishment, a section shall be an area larger than the immediate neighborhood, and a portion shall be an area larger than a section. The Board shall determine, on a

case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.

"1009.5 In submitting evidence of appropriateness, the applicant shall propose the boundaries of the locality, section, or portion to be considered. Any person may submit written objections to the boundaries proposed by the applicant, or may submit a written proposal listing alternative boundaries for consideration by the Board."

(e) Subsection 1010.1 is amended by striking the phrase "may direct the applicant to file with the Board" and inserting in its place the phrase "shall obtain".

(f) Subsection 1010.3 is amended to read as follows:

"The Board shall also obtain from the District of Columbia Board of Elections and Ethics a list of the names and addresses of persons residing within the radius of six hundred feet (600') and registered to vote as of the date of the license application."

(g) Subsection 1010.4 is amended to read as follows:

"1010.4 The list obtained under subsection 1010.3 shall be prima facie evidence of voter registration".

(h) Subsection 1010.5 is amended to read as follows:

"1010.5 The provisions of this section shall not apply to any of the following:

- "(a) Application for a solicitor's license;
- "(b) Application for a retailer's license, class E, class F, or class G; or
- "(c) Application for a retailer's license, class C/X for a club, or for a consumption license for a club.".

(i) Section 1011 is amended as follows:

(1) Subsection 1011.1 is amended by striking the phrase "section 14(a)(6)" and inserting in its place the phrase "section 14(b)".

(2) Subsection 1011.3 is amended by striking the phrase "section 14(c)" and replacing it with the phrase "section 14(e)".

(3) Subsection 1011.4 is amended to read as follows:

"1011.4 Petitions filed under section 1011.3 shall contain the information required by section 1011.2 (a),(b),(c), and (d), and shall additionally contain the following:

"(a) The street address of property resided on by the petitioner(s) and claimed to be within a radius of six hundred feet (600') of the boundary lines of the property that is the site of the applicant's establishment;

"(b) The statement approved by the Board pursuant

to section 14(e)(3) of the Act; and

"(c) The handwritten signature of each petitioner claiming residency on property located within a 600-foot radius.".

(4) Subsection 1011.5 is amended to read as follows:

"1011.5 Each person signing a petition under the requirement of paragraph 1011.4(c) shall sign his or her name legibly and in the manner normally used for legal documents.".

(5) A new subsection 1011.7 is added to read as follows:

"1011.7 The Board shall permit any party to a protested case to challenge the validity of signatures on petitions submitted by the opposing party, and shall establish a procedure to determine the validity of the challenged signatures.".

(j) Section 1013 is repealed.

(k) A new section 1027 is added to read as follows:

"1027 VOLUNTARY AGREEMENTS

"1027.1 The applicant and any person, organization, or institution objecting to the application may, at any stage, negotiate a settlement and enter into a written agreement setting forth the terms of the settlement.

"1027.2 The signatories to the agreement may

jointly submit the agreement to the Board and request the Board to approve a license application conditioned upon the licensee's compliance with the terms of the written agreement.

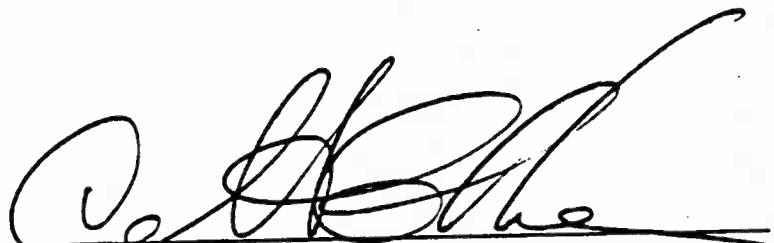
"1027.3 The Board, if it determines that the agreement complies with all applicable laws and regulations and the applicant otherwise qualifies for licensure, shall approve the license application conditioned upon the licensee's compliance with the terms of the written agreement. In doing so, the Board shall incorporate the text of the agreement in its order.

"1027.4 Whenever the Board of Education of the District of Columbia has objected to a license application, the Board shall not approve the license application pursuant to subsection 1027.3 unless the Board of Education of the District of Columbia is a signatory to the agreement.

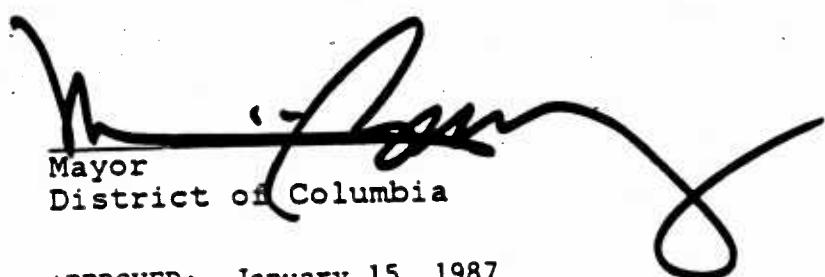
"1027.5 The Board may initiate a Notice to Show Cause Hearing upon evidence that the holder of a license issued pursuant to this section has violated the agreement. Upon a determination that the licensee has violated the agreement, the Board may suspend or revoke the license or impose any other penalty authorized by the Act.".

Sec. 18. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the

Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: January 15, 1987

THE DISTRICT OF COLUMBIA  
Six — Second Session

ALL COUNCIL VOTE

BUCKET NO: B6-504

NY, 11-25-86

ACTION

10

VOICE VOTE:  
Recorded vote on request

Absent:

(10 / 1 / 0 / 2)

ROLL CALL VOTE: — RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	
CHMN. CLARKE	X				MASON		X			SPAULDING					X
SMITH, JR.	X				RAY		X			WILSON		X			
CRAWFORD	X				ROLARK		X			WINTER		X			
JARVIS	X				SCHWARTZ					X					
KANE	X				SHACKLETON	X									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

12/30/86

Date

*Russell Srin*  
Secretary to the Council

Item on Consent Calendar

Adopted Final Reading, 12-16-86

ACTION & DATE: Adopted Final Reading, 12-16-86

VOICE VOTE: By Majority, Members Schwartz and Mason voted no

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	
CHMN. CLARKE					MASON					SPAULDING					
SMITH, JR.					RAY					WILSON					
CRAWFORD					ROLARK					WINTER					
JARVIS					SCHWARTZ										
KANE					SHACKLETON										

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

12/30/86

Date

*Russell Srin*  
Secretary to the Council

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE: — RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	
CHMN. CLARKE					MASON					SPAULDING					
SMITH, JR.					RAY					WILSON					
CRAWFORD					ROLARK					WINTER					
JARVIS					SCHWARTZ										
KANE					SHACKLETON										

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD