

Councilmember Kenyan R. McDuffie

A BILL

IN THE DISTRICT OF COLUMBIA

To amend, on an emergency basis section 25-113 of the District of Columbia Official Code to make amendments to the law regulating the Streatery and Pop Up programs.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Streatery and Pop Up Emergency Amendment Act of 2022”.

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

(a) Paragraph (3) is amended by adding a new subparagraph (D) 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 to a consumer 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. Board approval shall not be required for the additional registration under this paragraph; provided, that:

34 “(I) The licensee separately registers with the Board, pays
35 a fee of \$100, and receives written authorization from ABRA prior to offering alcoholic
36 beverages to consumers for carryout or delivery at an additional location;

37 “(II) The licensee, the additional location’s owner, or a
38 prior tenant at the additional location possesses a valid certificate of occupancy for the
39 building used as the additional location, unless the additional location is located on
40 outdoor private space;

41 “(III) The licensee has been legally authorized by the
42 owner of the building or the property utilized as the additional location to utilize the
43 space for carryout or delivery to a consumer;

44 “(IV) The licensee agrees to follow all applicable
45 Department of Consumer and Regulatory Affairs and Department of Health laws and
46 regulations; and

47 “(V) The additional location from which the licensee
48 intends to offer alcoholic beverages to a consumer for carryout or delivery is located in a
49 commercial or mixed-use zone as defined in the District’s zoning regulations.

50 “(ii) The on-premises retailer licensee shall not offer, beer, wine,
51 or spirits to a consumer for carryout and delivery on public space; except, that an
52 additional location permitted pursuant to this subparagraph may include a sidewalk café
53 that has been issued a public space permit by the District Department of Transportation.

54 “(iii) The on-premises retailer licensee who has registered to sell
55 beer, wine, or spirits for carryout or delivery to a consumer in accordance with this
56 subparagraph shall do so only at an additional location.

57 “(iv) An on-premises retailer licensee who has registered to sell
58 beer, wine, or spirits for carryout or delivery to a consumer pursuant to this
59 subparagraph may do so for no more than 60 calendar days; except, that upon approval
60 by the Board of a written request from an on-premises licensee to extend carryout or
61 delivery alcohol sales to a consumer from the additional location pursuant to this
62 subparagraph, the licensee may continue for one additional 30 calendar-day period. A
63 licensee shall not sell beer, wine, or spirits for carryout or delivery to a consumer for off-
64 premises consumption from the additional location for more than 90 calendar days
65 unless a completed application to do so has been filed with the Board with notice
66 provided to the public in accordance with § 25-421.

67 “(v) The on-premises retailer licensee registered to sell alcoholic
68 beverages for carryout or delivery to a consumer from an additional location in
69 accordance with this subparagraph is authorized only between the hours of 6:00 a.m. and
70 1:00 a.m., 7 days a week.

71 “(vi) The Board may fine, suspend, cancel, or revoke an on-
72 premises retailer’s license and shall revoke its registration to sell beer, wine, or spirits
73 for carryout and delivery to a consumer at the additional location if the licensee fails to
74 comply with subparagraphs (i) through (v) of this subparagraph.

75 “(vii) This subparagraph shall expire on December 31, 2023.”.

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

77 “(6)(A) An on-premises retailer’s licensee, class C/R, D/R, C/T, D/T, C/H,
78 D/H, C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, or a
79 manufacturer’s license, class A, B, or C, with an on-site sales and consumption permit,

80 or a Convention Center food and alcohol business may register with the Board in 2022
81 and 2023 to sell, serve, and permit the consumption of beer, wine, and spirits to
82 consumers on new or expanded temporary ground floor or street level outdoor public or
83 private space not listed on its existing license for the entire 12 months of 2022 and 2023.
84 Board approval shall not be required to register; provided, that the licensee:

85 “(i)(I) Registers with the Board in 2022 and 2023;

86 “(II) Pays a \$100 fee;

87 “(III) Notifies the Office of Advisory Neighborhood

88 Commissions by electronic mail of the registration; and

89 “(IV) Receives written authorization from ABRA prior to

90 selling, serving, or permitting the consumption of alcoholic beverages on the proposed

91 outdoor public or private space;

92 “(ii) Registers with the District Department of Transportation

93 (“DDOT”) prior to operating on any proposed outdoor public space or receives written

94 approval from the property owner prior to utilizing any proposed outdoor private space;

95 and

96 “(iii) Agrees to follow all applicable Mayor’s Orders and

97 Department of Consumer and Regulatory Affairs, Department of Health, DDOT and

98 ABRA regulations and administrative issuances.

99 “(B) An on-premises retailer’s licensee, class C or D, or a manufacturer’s

100 license, class A, B or C, with an on-site sales and consumption permit or a Convention

101 Center food and alcohol business that has registered with the Board and receives written

102 authorization from ABRA to sell, serve, and permit the consumption of beer, wine, and

103 spirits to seated patrons on outdoor public or private space not listed on its license in
104 accordance with subparagraph (A) of this paragraph shall:

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

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

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

112 “(C) Registration under subparagraph (A) of this paragraph shall be valid
113 for the entire 12 months of 2022 and 2023. The Board may fine, suspend, or revoke an
114 on-premises retailer’s license, class C or D, or a manufacturer’s license, class A or B,
115 with an on-site sales and consumption permit, and shall revoke the registration to sell,
116 serve, or permit the consumption of beer, wine, or spirits on outdoor public or private
117 space not listed on the license if the licensee fails to comply with subparagraph (A) or
118 (B) of this paragraph.

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

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

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

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

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

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

143 Sec. 3. Fiscal impact statement.

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

147 Sec. 4. Effective date.

148 This act shall take effect following approval by the Mayor (or in the event of
149 veto by the Mayor, action by the Council to override the veto), and shall remain in effect
150 for no longer than 90 days, as provided for emergency acts of the Council of the District
151 of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved
152 December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).