ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in the Omnibus Alcoholic Beverage Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-187; D.C. Official Code § 25-211(b) - (c) (2012 Repl. & 2019 Supp.)), D.C. Official Code § 25-501(d), D.C. Official Code § 25-502 (2012 Repl. & 2019 Supp.), and Mayor's Order 2001-96, dated June 28, 2001, as amended by Mayor's Order 2001-102, dated July 23, 2001, gives notice of its intent to amend Section 208 (License Fees) of Chapter 2 (License and Permit Categories) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR).

The emergency rulemaking will extend the FY 2021 deadline for nightclub license holders to pay their second-year annual fees until September 30, 2021.

In response to the Coronavirus Pandemic (pandemic), Mayor Bowser declared a Public Health Emergency and a Public Emergency. *See* Mayor's Orders 2020-045 and 2020-046 (March 11, 2020). Since the initial declaration of a public health emergency and a public emergency, Mayor Bowser has issued a series of Mayor's Orders extending the public health and public emergency. Most recently, Mayor Bowser issued Mayor's Order 2020-103, dated October 7, 2020, which extends the public emergency and public health emergency until December 31, 2020.

Since the onset of the pandemic, the Board has taken a number of steps to assist ABC-licensed establishments, including suspending late fees imposed on ABC-licensees who failed to renew their licenses by the statutory deadline and delaying the issuance of orders to cease and desist operations. *See Late Fees Notice of Emergency Rulemaking*, 67 DCR 10970 (September 11, 2020). Holders of nightclub licenses, however, have experienced a greater financial impact of the pandemic because they have remained closed since March. Thus, the Board is suspending their second-year annual payment until September 30, 2021.

In an effort to immediately preserve the welfare, public safety, and health of the community by mitigating both the spread of COVID-19 and the pandemic's impact on local businesses, the Board finds emergency action is necessary. Thus, on November 4, 2020, the Board adopted the *Second-year Annual License Fee Payment Deadline Notice of Emergency Rulemakin*g, by a vote of seven (7) to zero (0). This emergency rulemaking shall remain in effect for the duration of the Extensions of Public Emergency and Public Health Emergency but in no event longer than one hundred twenty (120) days from the Board's adoption; expiring on or before March 4, 2021, unless superseded. The emergency rulemaking shall take effect immediately upon the date of adoption.

Chapter 2, LICENSE AND PERMIT CATEGORIES, of 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

Section 208, LICENSE FEES, is amended by amending § 208.1 in its entirety to read as follows:

208.1 All license fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA. Applicants and licensees shall pay the annual license fees specified by the Board in the following manner:

(a) The fee for the first year shall be paid at the time an application is filed, but shall be returned to an applicant, minus the prescribed processing fee, if the application is denied;

(b) The fees for the second and third year shall be paid no later than one (1) and two (2) years, respectively, from the date of the issuance of the license; provided, that a licensee may pay the second and third year fees when the first year fee is paid. The payment of the second and third-year license fees shall not require the filing of a clean-hands certificate by the applicant; and

(c) Notwithstanding paragraph (b), for Fiscal Year 2021, the second-year annual license fee payment for on-premises retailer licenses, class C/N and D/N, shall be due by September 30, 2021.