

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 25 of the District of Columbia Official Code to prevent the entrance of persons under the age of 21 into alcoholic beverage control licensed nightclubs, or into licensed establishments with entertainment endorsements after 11:00 p.m., with certain exceptions, including accompaniment by a parent or legal guardian; to allow nightclubs and licensees with entertainment endorsements to apply for underage entertainment permission, to include a written security plan with specific requirements, for review and approval of the ABRA director; to establish grounds for denial, suspension or revocation for two primary tier violations; to clarify that licensees shall establish ownership and control of a venue, including responsibility for security, when renting or providing a venue to promoters or for special events; to establish an Underage Person Inspection Unit, Fund and appropriate fees and surcharges.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Protection and Safety of Underage Persons Amendment Act of 2007”.

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

(a) Section 25-782 is amended as follows:

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

"(a)(1)(A) No licensee under an on-premises retailer’s license, class CN or DN shall permit a person under 21 years of age to enter the licensed establishment.

“(B) No licensee with an entertainment endorsement that provides that entertainment after 11:00 p.m., shall permit a person under 21 years of age to enter or remain in the licensed establishment after 11:00 p.m.

(C) This subsection shall not apply if the person under 21 years of age is: (1) accompanied by a parent or legal guardian; (2) involved in an emergency; (3) a paid employee of the establishment; or (4) attending a social gathering where alcoholic beverages are neither sold nor served at the licensed establishment. A social gathering for persons under 21 years of age shall only be held after all alcoholic beverages have been secured and written notice has been provided by the licensed establishment at least seventy-two hours in advance to both MPD and ABRA.

(D) Notwithstanding this subsection, the holder of a class CN or DN retailer's license, or the holder of any retailer's license with an entertainment endorsement that provides entertainment after 11:00 p.m., who wishes to admit underage persons must submit an application for "underage entertainment permission" for review and approval by the ABRA Director. This application shall be subject to annual renewal and approval. An adverse decision by the ABRA Director on the application may be appealed to the ABC Board, in accordance with a procedure established by the ABC Board. Such application shall include:

- (i) The specific age category to be admitted;
- (ii) A written security plan to be approved by the ABRA Director which shall include at least the following elements:
 - a. The number and location of security personnel;
 - b. The establishment's identification checking and patron search procedures;
 - c. Procedures for ensuring that only persons 21 years or older are served alcohol;

- d. The establishment's procedures for handling violent incidents, other emergencies, and calling MPD and ABRA inspectors;
 - e. A statement of whether the establishment maintains an incident log;
 - f. A statement on the type of training provided and completed by security personnel, including conflict resolution training; and
 - g. The establishment's procedures for crowd control and preventing overcrowding.
- (iii) In determining whether a written security plan is adequate for approval, the ABRA director may take into account the following:
- a. The licensee/applicant's incident record; and
 - b. The type of programming to be presented at the licensee establishment.

“(E) The Board may issue regulations containing security plan requirements, in addition to those required in paragraph D of this subsection, in accordance with § 25-211(b).

“(F) Two “tier-one” violations within a two-year period, or a pattern of violent incidents related to the operation of the establishment, will be grounds for denial, suspension, or revocation of an “underage entertainment permission”.

“(F) Notwithstanding this subsection, the holder of a class CN or DN retailers license, or the holder of a any retailer's license with an entertainment endorsement that wishes to provide entertainment after 11:00 p.m., shall submit an application pursuant to paragraph (D) of this subsection for a one-day underage entertainment permission to hold an entertainment event that admits persons under the age of 21 where alcoholic beverages are sold or served. The application may be submitted as soon as possible but no less than 5 business days prior to the

event. If the application is not submitted within 5 business days prior to the event, the ABRA director shall not approve the application. The ABRA director has no authority to grant such a request more than six (6) times in a calendar year.”.

(2) Subsection (b) is amended by striking the phrase “violating subsection (a)” and inserting the phrase “violating subsection (a) or (a)(1)” in its place.

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

“(f) A violation of either subsection (a) or (a)(1) shall constitute a primary tier violation under Section 25-830(c)(1).”.

(b) A new section 25-797 is added to read as follows:

“§ 25-797. Use of Promoters”

“The holder of an on-premises retailer’s license may rent out or provide the licensed establishment for use by a third party or promoter for a specific event provided that the licensee maintains ownership and control of the licensed establishment for the duration of the event. Under no circumstances shall a licensee permit the third party or promoter to either: (a) share in the profits of the licensed establishment, or (b) be responsible for providing security or maintain control over the establishment’s existing security personnel. A violation of this section shall constitute a primary tier violation under Section 25-830(c)(1).”.

(c) Section 25-1002 is amended by adding a new paragraphs (b)(4) and (5) to read as follows:

“(4)(A) A licensee may, without force or violence, confiscate any identification that it has reason to believe is a fraudulent identification document presented for the purpose of entering a licensee establishment or purchasing alcoholic beverages. The licensee shall submit

the identification so confiscated to a law-enforcement officer within twenty-four hours of its confiscation.

(B) A licensee shall not be liable for any civil damages other than personal injury, unless it is proven the licensee acted in bad faith or maliciously.

“(5)(A) There is established an Underage Person Inspection Unit to work with the licensee to monitor compliance with this act and other activities relating to the illegal purchase, possession, or consumption of alcoholic beverages by underage persons.

(B) There is further established an Underage Person Inspection Fund to be comprised, at a minimum, of amounts equivalent to receipts from underage entertainment permission application and annual fees, underage entertainment protection surcharges, and any penalties or fees for a violation of this subchapter. The fund shall be a separate, non-lapsing, non-reverting fund from the general fund of the District of Columbia.

(C) The processing fee for the filing of an annual or one-day underage entertainment permission application shall be seventy five dollars (\$75). The annual fee for an underage entertainment permission shall be \$300, to be charged in addition to the processing fee of an annual or one-day application. The Board shall establish an appropriate fee for a one-day underage entertainment permission.

(D) A licensee establishment with underage entertainment permission shall charge a \$1 underage entertainment protection surcharge in addition to any entry or ticket fees charged at the licensee establishment, to be charged of each patron. Revenue generated by the licensee from the underage entertainment protection surcharge required by this subsection shall be payable to the Alcohol Beverage Regulation Administration for deposit into the Underage Person Inspection Fund.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c) (3)).

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)).