

## Hospitality / Alcoholic Beverage Licensing



### **Client Alert: D.C. Area Restaurants Face Sanctions and Potential Liquor License Revocation as of April 1, 2008 for Non-Compliance with Gross Annual Food Sales Requirements**

A critical deadline for D.C. area restaurants is approaching. The District of Columbia Alcoholic Beverage Regulation Administration (“ABRA”) will begin enforcing gross annual food sales requirements effective April 1, 2008.

According to a 2004 D.C. law, all liquor-licensed restaurants (class “CR”) must derive 45% of their annual gross sales, or \$2,000 per occupant, from food. The previous two-and-a-half-year grace period contained in DC Official Code § 25-101(43)(C) and further delayed by Council member Jim Graham will expire on March 30, 2008.

As a result, all restaurant licensees, under District of Columbia Official Code §§ 25-113(b)(2)(A), will be required to file quarterly statements for the Second Quarter Fiscal Year 2008 (January to March 2008) meeting the food threshold requirements *no later than* April 30, 2008. Failure to file such reports by their due dates could result in criminal and civil penalties, including a fine up to \$5,000 and/or or imprisonment.

In recent testimony before the D.C.’s Committee on public Works and Environment, Alcoholic Beverage Control (“ABC”) Board Chair Peter Feather testified that the ABC “intends to take enforcement action against all licenses who are not in compliance.”

According to Feather’s testimony and ABRA regulations, restaurants that fail to meet the required annual sales will be divided into two classifications, as summarized below.

Classification	Gross Annual Food Sales	Result
“minimal lack of compliance”	Exceeding 25% or \$1,100 per occupant	Mandatory hearing and penalties
“substantial lack of compliance”	Under 25% or \$1,100 per occupant	Sanctions, monitoring and potential revocation of liquor license

In addition, any restaurant that is considered in “minimal lack of compliance” for an entire year will automatically be considered “substantially noncompliant” and face potential sanctions and/or revocation of the establishment’s liquor license if still non-compliant the following year.

All D.C. liquor-licensed restaurants should ensure that their Second Quarter Fiscal Year 2008 reports are filed with the ABRA in compliance with the annual food sales requirements no later than April 30, 2008.

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