

**ENROLLED ORIGINAL**

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To amend section 25-1002 of the District of Columbia Official Code to clarify and revise the criminal and civil penalties to be imposed upon persons under the age of 21 who purchase, attempt to purchase, possess, or drink an alcoholic beverage, persons who make false representations or possess or present fraudulent identification for the purchase, possession, or drinking of an alcoholic beverage, and persons who present fraudulent identification for the purpose of entering certain establishments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Alcoholic Beverage Penalty Act of 2004".

Sec. 2. Section 25-1002 of the District of Columbia Official Code is amended as follows:

Amend  
§ 25-1002

(a) Subsection (c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (4)(D) of this subsection, any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine and suspension of driving privileges as follows:

“(A) Upon the first violation, a fine of not more than \$300 and suspension of driving privileges in the District for 90 consecutive days;

“(B) Upon the second violation, a fine of not more than \$600 and suspension of driving privileges in the District for 180 days; and

“(C) Upon the third and each subsequent violation, a fine of not more than \$1,000 and suspension of driving privileges in the District for one year.

“(2) In lieu of proceeding to trial or disposition under paragraph (1) of this subsection, the Mayor shall offer persons who are arrested, or criminally charged by information, for a first or second violation of this section, the option of completing a diversion program authorized and approved by the Mayor. The Mayor shall determine the content of the diversion program, which may include community service and alcohol awareness and

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education. If the person rejects enrollment in, or fails to comply with the requirements of, or fails to complete within 6 months, the diversion program, he or she may continue to be prosecuted in accordance with paragraph (1) of this section. The Mayor, may, at his discretion, decline to offer diversion to any person who has previously been convicted of, any felony, misdemeanor, or other criminal offense.

“(3) As a condition to acceptance into a diversion program, the Mayor may request that the person agree to pay the District, or its agents, a reasonable fee, as established by rule, for the costs to the District of the person's participation in the program; provided, that:

“(A) The fee shall not unreasonably discourage persons from entering the diversion program; and

“(B) The Mayor may reduce or waive the fee if the Mayor finds that the person is indigent.

“(4)(A) Upon the expiration of 6 months following the date of a conviction or a dismissal of a proceeding, or upon the expiration of 6 months following the date of arrest if no information was filed, any person who was arrested for, or criminally charged by information with, any offense under this section may petition the court for an order expunging from the official records all records relating to the arrest, information, trial, conviction, or dismissal of the person; provided, that a nonpublic record shall be retained by the court and the Mayor solely for the purposes of conducting a criminal record check for persons applying for a position as a law enforcement officer or determining whether a person has previously received an expungement under this subsection.

“(B) The court shall grant the petition described in subparagraph (A) of this paragraph if the petitioner has no pending charges for and has not been convicted of, any other felony, misdemeanor, or other criminal offense and if any fine imposed as a result of a conviction under this section has been paid; provided, that the court may grant the petition described in subparagraph (A) of this paragraph if, other than a conviction for a misdemeanor under this section, the petitioner has no pending charges for, and has not been convicted of, any felony, misdemeanor, or other criminal offense.

“(C) Except as provided by this subsection, the effect of an expungement order shall be to lawfully restore the person receiving the expungement to the status he or she occupied before the arrest or information described in subparagraph (A) of this paragraph. No person for whom an expungement order permitted by this subsection has been entered may be held thereafter, under any provision of law, to be guilty of perjury or otherwise giving a false statement by failing to recite or acknowledge such arrest, information, trial, conviction, or dismissal for which the order permitted by paragraph (4) of this subsection has been entered. The expungement of such records shall not relieve the person of the obligation to disclose such arrest, information, trial, conviction, or dismissal in response to a direct questionnaire or application for a position as a law enforcement officer.

“(D) No person under the age of 21 shall be criminally charged with the offense of possession or drinking an alcoholic beverage under this section, but shall be subject

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to civil penalties under subsection (e) of this section.

“(6) Failure to pay the fines set forth in paragraph (1) of this subsection shall result in imprisonment for a period not exceeding 30 days.

“(7) The Metropolitan Police Department may enforce provisions of this section by issuing to a person alleged to have violated this section a citation under § 23-1110(b)(1). The person shall not be eligible to forfeit collateral.”.

(b) Subsection (d) is repealed.

(c) Subsection (e) is amended to read as follows:

"(e)(1) In lieu of criminal prosecution as provided in subsection (c) of this section, a person who violates any provision of this section shall be subject to the following civil penalties:

“(A) Upon the first violation, a fine of not more than \$300 and the suspension of driving privileges in the District for 90 consecutive days;

“(B) Upon the second violation, a fine of not more than \$600 and the suspension of driving privileges in the District for 180 days; and

“(C) Upon the third or subsequent violation, a fine of not more than \$1,000 and the suspension of driving privileges in the District for one year.

"(2) ABRA inspectors or officers of the Metropolitan Police Department may enforce the provisions of this subsection by issuing a notice of civil infraction for a violation of subsections (a) and (b) of this section in accordance with Chapter 18 of Title 2. A violation of this subsection shall be adjudicated under Chapter 18 of Title 2.

“(3)(A) In lieu of or in addition to the civil penalties provided under paragraph (1) of this subsection, as a civil penalty, the Mayor may require any person who violates any provision of this section to complete a diversion program authorized and approved by the Mayor. The Mayor shall determine the content of the diversion program, which may include community service, and alcohol awareness and education.

“(B) As a condition to acceptance into a diversion program, the Mayor may request that the person agree to pay the District, or its agents, a reasonable fee, as established by rule, for the costs to the District of the person's participation in the program; provided, that:

"(i) The fee shall not unreasonably discourage persons from entering the diversion program; and

"(ii) The Mayor may reduce or waive the fee if the Mayor finds that the person is indigent.”.

Sec. 3. The Council adopts the attached fiscal impact statement 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)).

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Sec. 4. 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia