



OFFICE OF THE CITY ATTORNEY

RAUL AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: MAYOR DAN GELBER
MEMBERS OF THE CITY COMMISSION
JIMMY L. MORALES, CITY MANAGER SECOND READING

FROM: RAUL J. AGUILA, CITY ATTORNEY *R. Aguil*

DATE: MAY 8, 2019

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF MIAMI BEACH, ENTITLED "ALCOHOLIC BEVERAGES," ARTICLE I, ENTITLED "IN GENERAL," SECTION 6-5 THEREOF, ENTITLED "PATRON AGE RESTRICTIONS," BY AMENDING THE ENFORCEMENT AND PENALTIES PROVISIONS FOR THOSE VIOLATIONS ISSUED PURSUANT TO SECTION 6-5(a) OF THE CITY CODE; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The Administration has requested various amendment(s) to Section 6-5 of the City Code, which will further prevent the multitude of young visitors (under the age of 21) from being lured to alcoholic beverage establishments during High Impact Periods, and to establish succeeding enhancements to the penalty provision(s) in order to further strengthen the City's ability to take enforcement action against those alcoholic beverage establishments that admit a person under the age of 21 to enter their premises.

Mayor Dan Gelber has sponsored the amendment(s) to the Ordinance, which were initially heard by the Mayor and City Commission on first reading at the April 10, 2019 City Commission meeting, and which subsequently passed with a few minor modifications to those proposed amendments to the Ordinance.

Specifically, the amendment(s) would more severely, yet appropriately, sanction those alcoholic beverage establishments that allow persons under the age of 21 to patronize, visit, loiter or be admitted to their business premises. Furthermore, the Mayor and City Commission sought to clarify certain provision(s) within Section 6-5, as follows:

1. Section 6-5(b) has been further simplified to require any person under the age of 21 that is patronizing, visiting, loitering, or admitted to an alcoholic beverage establishment, to immediately leave the premises.

2. In Section 6-5(c), which establishes the penalty provision(s) and the express authority of the City to take enforcement action, the phrase "a person or business" has been duly replaced with the phrase "the violator," in order to further describe and clarify that the entity responsible for a violation of this Section must be an alcoholic beverage establishment.
3. The "Enhanced Penalties" section has been relocated from Section 6-5(d) to Section 6-5(c)(2) and, more importantly, upon the confirmation by the Miami Beach Police Department that a violation of Section 6-5 has occurred at the alcoholic beverage establishment, the City Manager is authorized to immediately terminate the operation of the alcoholic beverage establishment for the duration of the evening.

The inclusion of this supplemental language will serve to further deter the offending alcoholic beverage establishment from allowing those persons under the age of 21 to access their premises, and serves to harmonize the language utilized herein, with the language that has been developed for those violation(s) of Section 102-360 which, if approved by the City Commission at Second Reading on May 8, 2019, imposes a similar penalty as set forth in Section 102-377.

The second reading of the Ordinance is scheduled for the May 8, 2019 City Commission Meeting, and the Administration supports the further enhancement(s) set forth herein to Section 6-5 of the City Code.

RA/AB/sp