



Economic Impact Analysis Virginia Department of Planning and Budget

3 VAC 5-60 – Manufacturers and Wholesalers Operations Alcoholic Beverage Control Board November 2, 2006

Summary of the Proposed Regulation

The Alcoholic Beverage Control Board (ABC) proposes to make several amendments to its manufacturers and wholesalers operations regulation. ABC proposes to:

- Specify a process by which board licensees may request approval for hiring individuals with criminal records.
- Allow wine wholesalers to fill out a weekly report (in board approved format) of all wine purchased during the previous week in lieu of submitting copies of all purchase orders.
- Allow wine wholesalers to fill out a weekly report (in board approved format) of all non-taxed or out-of-state wine sales during the previous week in lieu of submitting copies of all invoices.
- Increase bond penalties from \$1,000 to \$2,500 in cases where wine wholesalers have failed to remit wine taxes owed to the Commonwealth.
- Allow retail establishments to display t-shirts and other novelty or specialty items that advertise alcoholic beverages.

Result of Analysis

The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact

Currently the Code of Virginia allows ABC to suspend the license of any licensee who knowingly hires any individual convicted of a felony, a misdemeanor that involves moral turpitude or a misdemeanor violation of any alcohol control law. ABC does have internal

guidelines for when such a suspension is appropriate but licensees have not had a means to determine whether any individual hire of someone with a criminal background had the potential to get their license suspended. This proposed regulation includes a provision that will allow licensees to apply for approval by the board before hiring an individual with a criminal conviction when that conviction might be grounds for license suspension. This regulatory change will give the same procedural rights to licensees and potential employees as are afforded licensees when they are charged with violations of the Beer and Wine Franchise Act. This means that licensees and potential employees will have the right to be represented by council and may call witnesses and present evidence.

This regulatory change will benefit licensee employers in that they will no longer have to choose between not hiring the employees they would prefer to hire and hiring those employees knowing that their license might be at risk. These employers may also see employment costs decrease by a small amount if this change widens the pool of individuals from which they may hire. Individuals who have criminal histories and want to work for businesses licensed by ABC will benefit because they likely stand a greater chance of being hired after promulgation of procedures that will protect licensee employers from possible repercussions of their hiring decisions. ABC will likely incur extra costs associated with the application and approval process being promulgated.

Current regulation requires that wine wholesalers submit copies to ABC of all purchase orders and invoices for non-taxed and out-of-state sales. The board proposes to allow wine wholesalers the option of sending in weekly reports that list all purchases (and non-taxed or out-of-state sales) from the previous week. This option will benefit wine wholesalers in that they will be able to submit required information in the manner that is individually most cost effective.

Currently, all new wine wholesalers must secure a \$1,000 indemnifying bond, from a surety company that is authorized to do business in the Commonwealth, before they can be licensed by ABC. This bond will be forfeit if the wine wholesaler fails to remit wine taxes that are owed to the Commonwealth. Wine wholesalers who have been licensed may submit a written request to ABC asking that this bond be waived. So long as the requesting entities have a record of paying their taxes in a timely fashion, ABC will not require that they continue to pay to be bonded. The board proposes to increase the value of the indemnifying bond that must be secured

to \$2,500 because \$1,000 will not, in most cases, cover the taxes owed by delinquent wine wholesalers. ABC reports that this increase in bond will increase wine wholesaler costs by only a very small amount because the price differential between a \$1,000 bond and a \$2,500 bond is negligible.

Current regulation restricts retail establishment from on-premises display of advertising novelty or specialty items (t-shirts, mugs, etc) given to them by spirits wholesalers. The board proposes to eliminate this restriction because they believe display of such items does not endanger the public.

Businesses and Entities Affected

These proposed regulatory changes will generally affect all of the approximately 14,000 establishments that are licensed by ABC and will particularly affect the portion of that 14,000 that are wine wholesalers.

Localities Particularly Affected

These proposed regulatory changes will affect all localities in the Commonwealth.

Projected Impact on Employment

These proposed regulatory changes may affect who is employed for various jobs at licensed establishments; for instance, more individuals with criminal histories may be hired by licensees. There will likely be no measurable change in total employment in the Commonwealth, however, on account of this proposed regulation.

Effects on the Use and Value of Private Property

These proposed regulatory changes will likely have no measurable effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. The portion of this population that consists of wine wholesalers will experience a negligible increase in costs on account of increased bond requirements.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternative methods that would accomplish the same ends as the proposed regulation for less cost to the regulated community.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.