



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Alcoholic Beverage Control Board
VAC Chapter Number:	3 VAC 5-60
Regulation Title:	Manufacturers and Wholesalers Operations
Action Title:	Business Entertainment and Gifts by Mixed Beverage Solicitors
Date:	3/2/01

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The Alcoholic Beverage Control Board intends to amend 3 VAC 5-60-80, which generally regulates the activities of individuals who hold permits to solicit mixed beverage licensees on behalf of distilled spirits manufacturers. The contemplated amendments would increase from \$5.00 to \$10.00 the maximum wholesale value of novelty and specialty items bearing spirits advertising which may be given away, and to allow permittees to provide routine business to mixed beverage licensees subject to the same conditions and limitations that apply to wholesalers and manufacturers.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

§§ 4.1-103 and 4.1-111 of the Code of Virginia authorize the Board to promulgate regulations which it deems necessary to carry out the provisions of the Alcoholic Beverage Control Act. § 4.1-111 also specifically requires the Board to promulgate regulations which maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers. 3 VAC 5-60-80 is designed to carry out this requirement by limiting the types of inducements, in the nature of goods or services, that may be offered by representatives of distilled spirits manufacturers to retailers.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Board contemplates amending 3 VAC 5-60-80 by increasing the maximum wholesale value of novelty and specialty items bearing spirits advertising spirits advertising from the present \$5.00 to \$10.00, in subsections D1 and D3d. The Board also expects to amend subsection E3 to allow permittees to provide retail licensees routine business entertainment in the same manner and subject to the same conditions and limitations that apply to wholesalers and manufacturers under 3 VAC 5-30-70. The amendments will protect the health, safety or welfare of citizens by allowing alcoholic beverage manufacturers or wholesalers a reasonable ability to promote their products, while not permitting undue influence on retailers from excessive gifts.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Alternatives which will be considered include removing restrictions altogether and the taking of no action.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory will have no impact on families.