



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Alcoholic Beverage Control Board
VAC Chapter Number:	3 VAC 5, Chapter 70 (3 VAC 5-70-10, et seq.)
Regulation Title:	Other Provisions
Action Title:	Waiver of Hearing and Payment of Civil Charge
Date:	1/9/01

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

Enter Statement Here

The regulation lists a number of administrative violations for which a licensee may waive administrative hearing and serve a predetermined term of license suspension or pay a predetermined monetary penalty in lieu of such suspension, if the licensee has not had any substantiated violations of regulation or statute within the three years immediately preceding the date of the violation. It also provides for the procedure of notifying violators of their options and the time frame within which such options must be exercised.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

Enter Statement Here

On December 12, 2000, the Alcoholic Beverage Control Board adopted a final regulation amending 3 VAC 5-70-10, et seq., "Other Provisions," specifically adding new section 3 VAC 5-70-210.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Enter Statement Here

The Alcoholic Beverage Control Board is required by §4.1-227 of the Code of Virginia, as amended by Chapters 549 and 563 of the 1995 Acts of Assembly, to adopt a regulation designating the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years. §4.1-227 also prescribes the maximum penalties for violations which may be imposed by the Board. This section was also amended by Chapter 648 of the 1999 Acts of Assembly.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not

acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

Enter Statement Here

The purpose of these amendments is to carry out the mandate of Chapters 549 and 563 of the 1995 Acts of Assembly and to provide licensees of the Board with a system whereby they may be allowed to pay a predetermined penalty upon commission of certain first-time regulatory violations and thereby avoid the expense of hearing procedures.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Enter Statement Here

3 VAC 5-70-210. This new section would grant licensees of the Board charged with a first-time violation of certain alcoholic beverage regulations the option of accepting a predetermined period of license suspension or a set monetary penalty in lieu of suspension, rather than have their case proceed to hearing. Any notice of hearing for a covered violation would be required to contain a notice of the licensee's options.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

Enter Statement Here

The proposed amendments will have some advantages for licensees of the Board. They will have the option of avoiding the expenses associated with a hearing on certain first-time

violations by accepting the predetermined penalty specified in the regulation. The Board may also receive an advantage from a reduction in hearing costs as licensees avail themselves of this option. There are no disadvantages to the Board, its licensees, or the public.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

Enter Statement Here
The Board made no changes from the proposed version.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Enter Statement Here
The Board received no public comments during the notice of comment period other than general comments of support for the amendments at the public hearing by the Virginia Hospitality and Travel Association and the Virginia Beer Wholesalers Association.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

Enter Statement Here
3 VAC 5-70-210. Schedule of penalties for first-offense violations. This new section provides that any licensee charged with a violation of the listed Board regulations or statutes, if the licensee has not had any substantiated violation within the previous three years, may waive a hearing and accept the listed punishment for that violation, either a set term of license suspension

or a civil penalty in lieu of suspension. The section also provides for notice of these options to a licensee who is notified of a violation hearing, and a twenty-day period for the licensee to exercise the options.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.

Enter Statement Here

The regulatory action will have no impact on the institution of the family or family stability.