

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.

No public comment was received.

The proposed 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.

Since the proposed regulation was mandated by the General Assembly, the Board has not considered whether, in its opinion, the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function. The Board has determined that the terms of suspension and civil charges included are essential to protect the health, safety or welfare of the public, setting penalties at a level designed to deter such misconduct, based upon its experience with cases handled through administrative hearings.

The proposed regulation is no more burdensome or intrusive on interested parties than current regulation, and gives such parties additional options to avoid the time and expense of administrative hearings. There were no less burdensome and less intrusive alternatives available to carry out the General Assembly's mandate.

The Alcoholic Beverage Control Board has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

By July 1, 2002, the Board will initiate a review and reevaluation of the regulation to determine if it should be amended. The goal of the regulation is to dispose of more first-time regulatory violations without the necessity of administrative hearings.

It is not anticipated that there will be any cost impact on the agency or localities to implement and enforce the proposed regulation. It is possible that agency costs for administrative hearings will decrease. It will affect the approximately 12,000 ABC licensees.