



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Alcoholic Beverage Control Board
<b>Virginia Administrative Code (VAC) citation</b>	3 VAC5-70
<b>Regulation title</b>	Other Provisions
<b>Action title</b>	Proration of License Fee for Businesses Destroyed by Natural Disaster
<b>Date this document prepared</b>	September 27, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of this regulatory action is to carry out the mandate of chapter 728 of the 2011 Acts of Assembly, which amended §§ 4.1-111 and 4.1-232 of the Code of Virginia to require that the board promulgate regulations that "prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232." This subsection requires the board to prorate license fees when a licensed place of business is destroyed by natural disaster.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Subdivision B 11 of Section 4.1-111 and subsection C of Section 4.1-232, Code of Virginia, as adopted in Chapter 728 of the 2011 Acts of Assembly require the board to promulgate regulations to establish a schedule for proration of license fees in the event a licensed business is destroyed by natural disaster, but the details are discretionary with the board.

## Need

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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The proposed regulatory action is essential to protect the welfare of citizens by providing a means to protect them from the total loss of unused license fees when natural disaster prevents them from exercising the privileges of a license.

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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It is anticipated that this action will amend Chapter 70 by the addition of a new 3 VAC 5-70-95, providing a schedule of the percentage of the license fee that will be refunded to a licensee whose place of business is destroyed by natural disaster. The percentage will vary depending on when in the course of the license year the destruction occurs.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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Since the language of the statute mandates the promulgation of regulations, there is no viable alternative to the proposed regulatory action.

## Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable

effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website, [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail, email, or fax to **W. Curtis Coleburn, Chief Operating Officer, Department of Alcoholic Beverage Control, Post Office Box 27491, Richmond, Virginia 23261, [curtis.coleburn@abc.virginia.gov](mailto:curtis.coleburn@abc.virginia.gov), telephone (804) 213-4409, facsimile (804) 213-4411**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held.

**Participatory approach**

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, regulatory advisory panels) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach.

**Family impact**

*Assess 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.*

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This action is not expected to have any impact on the institution of the family or family stability.