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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Alcoholic Beverage Control Authority
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	3VAC5-50-260
<b>VAC Chapter title(s)</b>	Retail Operations
<b>Action title</b>	Marketplace License Regulations
<b>Final agency action date</b>	April 14, 2021
<b>Date this document prepared</b>	June 3, 2021

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

House Bill 390 and Senate Bill 389 of the 2020 General Assembly session (the "Bill") reorganized all alcoholic beverage control licenses pursuant to the three-tier structure and license privileges, consolidated many licenses with common privileges, aligned license fee amounts with enforcement demands, and standardized quantity limits on alcohol samples. It also created a new license designation called the marketplace license. This license permits persons operating a business enterprise of which the primary function is not the sale of alcoholic beverages, which shall authorize the licensee to serve complimentary wine or beer to bona fide customers on the licensed premises subject to any limitations imposed by the Board.

Enactment Clause 9 of the Bill directed the Board of Directors of the Virginia Alcoholic Beverage Control Authority to promulgate regulations to implement the provisions of the act. The Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt

from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption. House Bill 1845 of the 2021 General Assembly session delayed the effective date of the Bill from July 1, 2021 to January 1, 2022.

New regulations specifically for the marketplace license had to be drafted so that licensees will have guidance regarding this new designation.

### **Mandate and Impetus**

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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Enactment Clause 9 of House Bill 390 and Senate Bill 389 of the General Assembly session directed the Board of Directors of the Virginia Alcoholic Beverage Control Authority (the Board) to promulgate regulations to implement the provisions of the act. The Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment on the regulations prior to adoption.

### **Statement of Final Agency Action**

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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At the April 14, 2021 meeting of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, the Board members voted unanimously to approve the draft of the regulations titled "Marketplace License Regulations".