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Exempt Action: Final Regulation
Agency Background Document

Agency name	Virginia Alcoholic Beverage Control Authority
Virginia Administrative Code (VAC) Chapter citation(s)	3 VAC 5-90
VAC Chapter title(s)	Retail Tobacco Permittees
Action title	Retail Tobacco Regulations (Proposed – Final)
Final agency action date	November 4, 2026
Date this document prepared	November 4, 2026

While 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 Virginia Regulatory Town Hall using this form. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the *Regulations for Filing and Publishing Agency Regulations* (1 VAC 7-10), and the *Form, Style, and Procedure Manual for Publication of Virginia Regulations.*

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 308 (identical to Senate Bill 620) transitions and provides a more comprehensive structure for the current licensing and enforcement responsibilities related to liquid nicotine and retail tobacco products from the Department of Taxation to a permitting system administered by the Virginia Alcoholic Beverage Control Authority ("VA ABC"). Enactment Clause 6 of the bill mandates that the Virginia Alcoholic Beverage Control Authority promulgate regulations to implement the provisions of this act by December 1, 2026.

Chapter 90 is a wholly new chapter in the Virginia Administrative Code promulgated to provide regulation for the new tobacco permitting structure implemented by VA ABC.

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 17 (2026), "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." For changes in response to federal mandates, indicate the extent of discretion related to the proposed regulatory changes, the rationale for the changes, and briefly indicate how the federal mandate aligns with the best interest of public welfare.

Per Enactment Clause 6 of HB308 (SB620), with the exception of § 2.2-4031 of the Code of Virginia, neither the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) nor public participation guidelines adopted pursuant thereto shall apply to the adoption of any regulation pursuant to this act.

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) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On November 4, 2026, the Virginia Alcoholic Beverage Control Authority Board of Directors moved to adopt the final amendments to the regulation entitled "Retail Tobacco Permittees" with one substantive amendment to Section 3VAC5-90-80; the addition of a definition for "permittee", and non-substantive revisions to the catchlines.