

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**3 VAC 5-50 Retail Operations**  
**Department of Alcoholic Beverage Control**  
**Town Hall Action/Stage: 4480/7394**  
March 15, 2016

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 404 of the 2015 Acts of General Assembly, the Board of Alcoholic Beverage Control (Board) proposes to relax the limitations on happy hour promotions.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

Chapter 404 of the 2015 Acts of General Assembly amended Virginia Code section 4.1-111(B)(15) requiring the Board to prescribe the limitations for happy hour promotions. In addition, Chapter 826 of the 2006 Acts of General Assembly amended Virginia Code sections 4.1-201(A)(11) and (14) to allow flights of wine and beer to be sold subject to certain restrictions. Currently, a person is not allowed more than two drinks at any one time during a happy hour. The Board now proposes to allow mixed beverage retail licensees: 1) to permit patrons to possess a flight of wine, beer or mixed beverages consisting of no more than five sample products provided each sample of distilled spirits contains no more than one half ounce of spirits, 2) to sell pitchers of mixed beverages during a happy hour in accordance with limitations established by the Board, and 3) to list the alcoholic beverage products featured during a happy hour in any lawful advertisement. Thus, the proposed regulation will allow in

general more flexibility to the licensees in the sale and promotion of alcoholic beverages during a happy hour. The proposed changes will likely increase the sales of mixed beverages during happy hour.

### **Businesses and Entities Affected**

The proposed regulation applies to approximately 6,000 retail licensees authorized to sell for on-premises consumption.

### **Localities Particularly Affected**

The proposed changes apply statewide.

### **Projected Impact on Employment**

The proposed amendments could be expected to increase sales of mixed beverages during happy hours and demand for labor employed in production and sales.

### **Effects on the Use and Value of Private Property**

Allowing more flexibility in the sale and promotion of alcoholic beverages during a happy hour may have a positive revenue impact on affected licensees and their asset values.

### **Real Estate Development Costs**

No impact on real estate development costs is expected.

### **Small Businesses:**

#### **Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

#### **Costs and Other Effects**

Approximately 75 percent of the 6,000 retail licensees are estimated to be small businesses. The proposed regulation does not impose costs on them. The effects on small businesses are the same as discussed above.

### **Alternative Method that Minimizes Adverse Impact**

No adverse impact on small businesses is expected.

**Adverse Impacts:****Businesses:**

The proposed regulation does not have an adverse impact on non-small businesses.

**Localities:**

The proposed regulation will not adversely affect localities.

**Other Entities:**

The proposed regulation will not adversely affect other entities.

**Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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