

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

3 VAC 5-70 – Other Provisions
Virginia Department of Alcoholic Beverage Control
Town Hall Action/Stage: 4512/7439
March 9, 2016

Summary of the Proposed Amendments to Regulation

The Board of Alcoholic Beverage Control (Board) proposes to allow representatives of wineries, farm wineries, breweries and beer and wine importers to give away samples of wine or beer to retail licensees who do not currently sell the products sampled. The proposed regulation will allow such sample gifts so long as the samples are obtained from wholesalers or retail licensees located in the Commonwealth.

Result of Analysis

Benefits likely outweigh costs for this proposed regulatory change.

Estimated Economic Impact

Current regulation allows licensed wholesalers to give samples of their wine or beer to retail licensees so long as: 1) the retail licensee does not already carry the product being sampled, 2) the product is in a container that does not exceed 52 fluid oz., or 1.5 liters, in volume, 3) the retail licensee does not sell the sample, 4) the sample “bears the word ‘Sample’ in letters of a reasonable size” and 5) the sample comes from the wholesaler’s own stock (to assure that all excise tax has been paid). The Board now proposes to also allow representatives of wineries, farm wineries, breweries and beer and wine importers to also give samples to retail licensees so long as they follow all the same rules as wholesalers with one change; because representatives

would not have stocks of wine and beer for which excise taxes have already been paid, the Board proposes to allow samples given to retail licensees by these entities to be obtained either from licensed wholesalers or from retail licensees in the Commonwealth.

This change will benefit wineries, farm wineries, breweries and wine and beer importers as it will allow them to directly market their products to retail licensees. The change will also likely benefit retail licensees as a greater number of businesses will be authorized to give them samples.

Businesses and Entities Affected

This proposed regulatory change will affect all manufacturers, wholesalers and retailers of beer and wine. Board staff reports that there are more than 1,000 entities that will be affected and that the all of those entities are small businesses.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory change.

Projected Impact on Employment

This proposed regulatory change is unlikely to have any effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property

To the extent that this proposed change allows wineries, farm wineries, breweries and beer and wine importers to more effectively market their products and increase their revenues, the value of these businesses may increase.

Real Estate Development Costs

This proposed regulatory change is unlikely to affect real estate development costs in the Commonwealth.

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

Small businesses are unlikely to incur any costs on account of this proposed regulatory change.

Alternative Method that Minimizes Adverse Impact

Small businesses are unlikely to incur any costs on account of this proposed regulatory change.

Adverse Impacts:

Businesses:

Businesses are unlikely to incur any costs on account of this proposed regulatory change.

Localities:

Localities in the Commonwealth are unlikely to see any adverse impacts on account of this proposed regulatory change.

Other Entities:

No other entities are likely to be adversely affected by this proposed change.

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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