

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 -30 Tied-House
Department of Alcoholic Beverage Control
Town Hall Action/Stage: 4660 / 7698
October 28, 2016

Summary of the Proposed Amendments to Regulation

The Alcoholic Beverage Control Board (Board) proposes to permit wholesale wine licensees to differentiate in product pricing between retail establishment purchasers with on-premises and off-premises privileges.

Result of Analysis

The benefits likely exceed the costs for the proposed change.

Estimated Economic Impact

The current regulation limits the ability of wine and beer wholesalers from differentiating pricing between retail off-premises and retail on-premises privilege licensees. The Board was petitioned by the Virginia Wine Wholesalers Association to consider amending the regulation section 3VAC 5-30-90; Price Discrimination, Inducements, to allow for differentiated pricing between off-premises and on-premises accounts. The Board proposes an amendment that would permit licensed wine wholesalers to establish differentiated pricing between on-premises and off-premises retail licensees. The amendment does not pertain to beer wholesalers.

The proposed amendment will enable wholesale wine licensees to have greater flexibility in how they choose to price their products. This may enable these firms to adjust prices in a manner that increases profits. Wholesalers will likely seek to determine if one of the two types of

retail establishment purchasers (on-premises and off-premises) is more sensitive to price changes than the other; in other words, more likely to increase purchases with a lower price and reduce purchases with a higher price.¹ If wholesalers determine that one of the types of retail establishment purchasers is more price sensitive, they will charge a lower price to that type than to the less price sensitive type. The more price sensitive type may benefit from lower prices, while the less price sensitive type may face higher prices.

Businesses and Entities Affected

The proposed amendment affects the 14,000+ retail on-premises and retail off-premises Alcoholic Beverage Control licensees and the 350 wholesale wine licensees in the Commonwealth, most of which are small businesses.²

Localities Particularly Affected

The proposed amendment does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendment would not likely significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendment may enable wholesale wine licensees to increase profits by enabling additional flexibility in product pricing.

Real Estate Development Costs

The proposed amendment does not affect real estate development costs.

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.”

¹ In the terminology of economists, those who are more price sensitive are said to have relatively elastic demand, and those who are less price sensitive are said to have relatively inelastic demand.

² Data source: Department of Alcoholic Beverage Control

Costs and Other Effects

The proposed amendment allows wholesale wine licensees to charge one price to small retail off-premises privilege licensees and a different price to small on-premises privilege licensees. Wholesalers will likely increase prices for the type they determine to be less price sensitive, and lower prices for the type they determine to be more price sensitive. Thus the cost of wine purchases from wine wholesalers will likely increase for the less price sensitive type and decrease for the more price sensitive type.

Alternative Method that Minimizes Adverse Impact

Though the cost of wine purchases will likely increase for the less price sensitive type of Alcoholic Beverage Control retail licensee, there is no apparent alternative method that will reduce that adverse impact and still meet the intended policy goal with its associated benefits.

Adverse Impacts:

Businesses:

The proposed amendment allows wholesale wine licensees to charge one price to retail off-premises privilege licensees and a different price to on-premises privilege licensees. Wholesalers will likely increase prices for the type they determine to be less price sensitive.

Localities:

The proposed amendment does not adversely affect localities.

Other Entities:

The proposed amendment does 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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