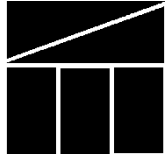


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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
Department of Alcoholic Beverage Control
Town Hall Action/Stage: 4986 / 8443
December 20, 2018

Summary of the Proposed Amendments to Regulation

Following the 2017 legislative increase in maximum amount of penalties the Alcoholic Beverage Control Board (Board) is authorized to impose,¹ the Board proposes to increase penalties for first-offense violations by either \$250 or \$500.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The 2017 General Assembly increased the maximum penalty from \$2,500 to \$3,000 for first-offense violations involving sale of alcohol to persons prohibited from purchasing alcohol and from \$1,000 to \$2,000 for other first-offense violations.² Accordingly, the Board proposes to increase the 26 different civil charges prescribed in this regulation by either \$250 or \$500. Based on the type and number of violations occurred in 2017, the Department of Alcoholic Beverage Control (ABC) expects the collections of penalties to increase from \$532,225 to \$794,250, a \$262,025 annual increase. The money collected from penalties is a source of General Fund revenue. Thus, the anticipated increase will be available to pay for general state expenditures.

¹ <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0698>
<http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0707>

² Ibid.

In addition to the positive revenue impact, higher penalties would likely discourage violations and improve compliance. According to ABC, the Board opted not to increase the penalties to the maximum authorized in the legislation in order to encourage resolution of low-level first offenses expeditiously through a process without licensees having to go through the hearing process, which can oftentimes be intimidating and stressful.

Businesses and Entities Affected

The proposed new civil penalties applies to approximately 18,000 Board licensees. Most of the licensees are likely small businesses such as restaurants, bars, grocery stores, wineries, etc.

Localities Particularly Affected

The proposed changes would not disproportionately affect particular localities.

Projected Impact on Employment

The proposed changes are unlikely to affect employment.

Effects on the Use and Value of Private Property

The proposed changes are unlikely to affect the use and value of private property.

Real Estate Development Costs

The proposed changes would 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.”

Costs and Other Effects

The proposed changes would not have costs or other effects on small businesses licensees unless they commit a first-offense.

Alternative Method that Minimizes Adverse Impact

The proposed changes would not impose adverse impacts on small businesses unless they commit a first-offense. There is no known alternative to minimize the adverse impact on such businesses while accomplishing the same goals.

Adverse Impacts:**Businesses:**

The proposed changes would not impose adverse impacts on non-small business licenses unless they commit a first-offense.

Localities:

The proposed changes would not adversely affect localities.

Other Entities:

The proposed changes would 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 14 (as amended, July 16, 2018). 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.