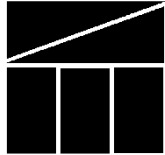


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 5-10 Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations
Department of Alcoholic Beverage Control
Town Hall Action/Stage: 4988 / 8189
March 1, 2018

Summary of the Proposed Amendments to Regulation

The Alcoholic Beverage Control Board (Board) proposes to specify that in appealing an adverse initial decision, the interested party must identify any alleged error(s) in the decision of the Board.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The current regulation governing appeals to the Board does not require the interested party to identify any grounds for an appeal. Consequently, it is common for licensees to file an appeal effectively stating no more than “I appeal.” In calendar year 2017, 70% of the appeals were of this category.¹

Appeals are costly in that they require significant staff time. In order to limit the wasting of resources where the licensee has no specified grounds for appeal, the Board proposes to require that the filed appeal include identifying any alleged error(s) in the initial decision. This is

¹ Data Source: Virginia Alcoholic Beverage Control Authority

consistent with Code of Virginia § 2.2-4027, which requires that a party complaining of an agency action designate and demonstrate an error of law subject to review by the court.

It is expected that this would discourage the filing of appeals where the interested party has no specified grounds beyond unhappiness with the initial decision. Based on the estimated time saved and rate of compensation of the chief hearing officer, the Board's clerk, the appeals clerk, a court reporter, and the record backup clerk, on a per case avoided basis the proposed amendment would save approximately \$540 to \$935 in staff time.²

Businesses and Entities Affected

All 13,000+ licensees could potentially be subject to disciplinary proceedings, and thus could be affected by the proposed amendments.³ The Department of Alcoholic Beverage Control issues: licenses for manufacturers, wholesalers and shippers of alcoholic beverages; retail licenses for the sale of alcohol at restaurants, hotels, convenience stores, grocery stores, etc.; and banquet licenses to allow persons or groups to host events such as wedding receptions, tastings or fundraisers, where alcohol is served in an unlicensed location or club premise.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not significantly affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do 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

² Estimates of time saved and employee compensation provided by the Alcoholic Beverage Control Authority.

³ Data source: Alcoholic Beverage Control Authority

(ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

Costs and Other Effects

The proposed amendments do not affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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.