



Economic Impact Analysis Virginia Department of Planning and Budget

**3 VAC 5-50 – Retail Operations
Alcoholic Beverage Control Board
January 10, 2013**

Summary of the Proposed Amendments to Regulation

The Alcoholic Beverage Control Board (ABC) proposes to amend its regulations to clarify existing provisions of regulation, change the dollar amount of food that must be sold at gourmet shops in order for them to be licensed by ABC and to prohibit licensees (in most cases) from allowing individuals under the age of 21 to possess alcohol on licensed premises.

Result of Analysis

Benefits likely outweigh costs for implementing these proposed changes.

Estimated Economic Impact

With this regulatory action, ABC proposes to change or move several sections of regulation so that regulatory requirements are clearer and easier to find. For example, ABC proposes to remove Code of Virginia citations for crimes that would preclude employment in a position that involves the selling or serving of alcoholic beverages and instead list the actual crimes. No affected entity is likely to incur costs on account of these regulatory changes because no new requirements are being added. Affected entities will benefit from the additional clarity these changes bring to the regulation.

Current regulations require gourmet shops that are licensed to sell alcohol to have at least \$2,000 in monthly food sales. Several years ago, the General Assembly lowered the required amount for minimum monthly food sales for gourmet shops who are licensed by ABC to \$1,000 per month. ABC has not enforced the \$2,000 sales requirement since the General Assembly action and now seeks to amend regulations so they conform to the Code of Virginia (COV). No affected entity is likely to incur costs on account of this regulatory change because no new

requirement is being added. Affected entities will benefit from the additional clarity of having the same rule in both the COV and regulations.

Current regulations prohibit licensees from selling alcohol to anyone under the age of 21 and from allowing the consumption of alcohol on their licenses premises by anyone under the age of 21. ABC proposes to also prohibit the possession of alcohol on licensed premises by individuals under the legal drinking age except when such possession is by individuals in the process of fulfilling employment duties or is at the order of a parent or a law enforcement officer. This regulatory change will likely make it easier for law enforcement officers and ABC inspectors to cite licensees who are serving underage drinkers since these entities would no longer have to catch underage drinkers in the process of actually drinking alcohol in order to issue citations. To the extent that current regulations are ambiguous about what behavior is prohibited, licensees will benefit from the additional clarity that this proposed change brings.

Businesses and Entities Affected

ABC reports that 12,000 businesses would be potentially affected by this proposed regulatory change; 70% of these entities would meet the Commonwealth's definition of small business.

Localities Particularly Affected

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

Projected Impact on Employment

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

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

No small business is likely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No small business is likely to incur any costs on account of this regulatory action.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the Board the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.