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 5-50 Retail Operations
Department of Alcoholic Beverage Control
Town Hall Action/Stage: 4412/7293
March 15, 2016

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 404 of the 2015 Acts of General Assembly, the Board of Alcoholic Beverage Control proposes to allow retail mixed beverage licensees to mix spirits in larger containers and to allow the sale of mixed beverages in pitchers and in flights.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Chapter 404 of the 2015 Acts of General Assembly amended Virginia Code section 4.1-111(B)(20) to: 1) increase the size of containers retail mixed beverage licensees may use for infusion of spirits from two to twenty liters in volume, and 2) allow the sale of premix containers of sangria and other mixed beverages in pitchers subject to limitations (i.e. cannot be sold in pitchers greater than 32 ounces, a pitcher may not be served to a single patron, and the containers must be labeled as to the type of and quantity of the ingredients it contains). The legislation also amended 4.1-111(A)(14) to allow a mixed beverage licensee to offer for sale a flight of distilled spirits consisting of up to five different types, each not exceeding one-half of one ounce by volume for one price. Thus, the proposed regulation will allow in general more flexibility to the licensees in making and selling of mixed beverages.

While the proposed changes could be expected to increase the sales of mixed beverages in the Commonwealth, the Department of Alcoholic Beverage Control notes that the licensees currently could achieve the same sales goals by a larger number of transactions, or infuse the same quantity by a larger number of mixings, but has no information on the likely magnitude of such impact. In that sense, the proposed regulation provides greater flexibility to achieve the same sales and production goals.

Businesses and Entities Affected

The proposed regulation applies to approximately 6,600 retail mixed beverage restaurant licensees.

Localities Particularly Affected

The proposed changes apply statewide.

Projected Impact on Employment

Allowing mixed beverages for sale in pitchers and in flights could be expected to increase sales of mixed beverages and demand for labor associated with increased production and sales. On the other hand, allowing larger containers for mixing could be expected to reduce the demand for labor used in production to some extent.

Effects on the Use and Value of Private Property

Allowing the sale and mixing of larger quantities of spirits may increase revenues and reduce production costs, which in turn would have a positive impact on affected licensees and their asset values.

Real Estate Development Costs

No impact on real estate development costs is expected.

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 majority of the 6,600 retail mixed beverage restaurant licensees are estimated to be small businesses. Some of the chain restaurants are owned by large corporations. The proposed regulation does not impose costs on them. The effects on small businesses are the same as discussed above.

Alternative Method that Minimizes Adverse Impact

No adverse impact on small businesses is expected.

Adverse Impacts:

Businesses:

The proposed regulation does not have an adverse impact on non-small businesses.

Localities:

The proposed regulation will not adversely affect localities.

Other Entities:

The proposed regulation allows consumers to purchase mixed beverages in pitchers and in flights.

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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