

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 5-20 – Advertising
Virginia Department of Alcoholic Beverage Control
Town Hall Action/Stage: 4479/7393
March 14, 2016

Summary of the Proposed Amendments to Regulation

As the result of a court ruling,¹ the Board of Alcoholic Beverage Control (Board) proposes to remove language from this regulation that prohibits the advertising of alcoholic beverages in college student publications.

Result of Analysis

Whether the benefits exceed the costs depend on the policy views of the observer.

Estimated Economic Impact

Current regulatory language prohibits the advertising of alcoholic beverages in college student publications except in reference to a dining establishment. On September 25, 2013, the U.S. Court of Appeals, Fourth Circuit ruled that this ban is a violation of the First Amendment of the U.S. Constitution as it is applied to college newspapers.² Therefore, the Board now proposes to eliminate this ban on advertising in college student publications.

Empirical research suggests that alcohol advertising does moderately increase alcohol consumption among college students. However limited bans, such as on advertising in college student newspapers, are ineffective in significantly reducing consumption as such bans result in

¹ Educational Media Co. v. Insley which can be found here:
<http://www.ca4.uscourts.gov/Opinions/Published/122183.P.pdf>

² Ibid

substitution to other available media (e.g., other Internet sites frequented by college students, radio and television.).³ Accordingly, the proposed repeal of the ban on advertising of alcoholic beverages in college student publications will not likely result in a significant change in the quantity of alcohol consumption among college students. Nonetheless, some people believe it is morally wrong to permit alcohol advertising in publications where the majority of the readership is likely underage.

The proposed amendment will benefit alcohol manufacturers and distributors as they will have more choices as to where they can legally advertise their products, so as to maximize both current and future profits. It will also benefit college publications as they will have additional sources of advertising revenue.

Businesses and Entities Affected

This proposed regulatory change will affect all manufacturers, wholesalers and retailers as well as any college newspapers who would like to accept advertisements from those entities. Board staff reports that there are more than 10,000 entities that will be affected and that the majority of those entities are small businesses.

Localities Particularly Affected

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

Projected Impact on Employment

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

Effects on the Use and Value of Private Property

This proposed regulatory change may increase the value of the non-profit corporations that own college newspapers or other college student publications if advertisement revenues increase on account of alcoholic beverage ads being allowed in their publications. The present and/or future value of alcoholic beverage manufacturers, wholesalers and retailers businesses may also moderately increase if ads in college student publications increase present sales or increase brand loyalty so that future sales increase.

³ Saffer, H., "Alcohol Advertising and Youth," National Institute on Alcohol Abuse and Alcoholism, 2005.

Real Estate Development Costs

This proposed regulatory change is unlikely to affect real estate development costs in the Commonwealth.

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

Small businesses are unlikely to incur any costs on account of this proposed regulatory change.

Alternative Method that Minimizes Adverse Impact

Small businesses are unlikely to incur any costs on account of this proposed regulatory change.

Adverse Impacts:

Businesses:

Businesses are unlikely to incur any costs on account of this proposed regulatory change.

Localities:

Localities in the Commonwealth are unlikely to see any adverse impacts on account of this proposed regulatory change.

Other Entities:

No other entities are likely to be adversely affected by this proposed change.

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.

Amh/lsg/mkw