

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

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**3 VAC 5-40 Requirements for Product Approval**  
**Department of Alcoholic Beverage Control**  
**Town Hall Action/Stage: 4482/7396**  
March 14, 2016

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### **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 amend this regulation to allow certain alcoholic beverage licensees to sell beer, wine, and cider in larger growlers or in new types of containers for off-premises consumption.

### **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 sections 4.1-111(B)(17,18,19) to 1) increase the amount of beer and cider that can be sold for off-premises consumption from 64 ounces or two liters to 128 ounces or four liters in a growler by a beer and cider retailer licensed to sell only for off-premises consumption; 2) allow the sale of wine for off-premises consumption up to 64 ounces or two liters in a growler by a wine retailer licensed to sell only for off-premises consumption; and 3) allow the sale of wine or beer for off-premises consumption up to 32 ounces or one liter in a sealed container made of metal or other types of materials by a wine and beer retailer or a gourmet shop licensed to sell for on or off-premises consumption. Thus, the proposed regulation will allow in general only for off-premises

consumption certain licensees to sell beer, cider, or wine in larger quantities or allow them to be sold in new types of containers in addition to growlers.

While the proposed changes could be expected to increase the sales of wine, beer, or cider in the Commonwealth, the Department of Alcoholic Beverage Control notes that the licensees currently could achieve the same sales goals by selling smaller but a larger number of growlers, 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 goals. In addition, the proposed regulation is identical in substance to the statute and therefore no significant effect is expected upon promulgation of these changes as the affected licensees are already allowed to sell beer, wine, and cider under the statute. Thus, while higher sales could be reasonably expected to benefit the affected licensees, no significant economic impact is likely for them or on public consumption upon promulgation of this regulation, other than improving clarity through consistency between the regulation and the Code of Virginia.

### **Businesses and Entities Affected**

The proposed regulation applies to approximately 8,000 retail and gourmet shop licensees.

### **Localities Particularly Affected**

The proposed changes apply statewide.

### **Projected Impact on Employment**

The proposed amendments could be expected to increase sales of wine, beer, and cider and increase the demand for labor employed in production and sales. However, the statute has been in effect and any such impact is probably already realized. Thus, no significant impact on employment is expected upon promulgation of this regulation.

### **Effects on the Use and Value of Private Property**

Allowing the sale of larger quantities of wine, beer, and cider provides more flexibility in achieving same sales goals and may have had a positive revenue impact on affected licensees and their asset values when the statute has authorized them to do so.

### **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 vast majority of the 8,000 retail and gourmet shop are estimated to be small businesses. The proposed regulation does not impose costs on them. The proposed regulation simply conforms to the statute which may have had a positive impact on sales.

**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 simply conforms to the statute allowing consumers to purchase beer, wine, and cider in larger and new type of containers from certain retailers.

**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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