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## Periodic Review Report of Findings

<b>Agency name</b>	Virginia Alcoholic Beverage Control Authority
<b>Virginia Administrative Code (VAC) citation</b>	3VAC5-30
<b>Regulation title</b>	Tied-House
<b>Date this document prepared</b>	02/14/2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

N/A

## Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

Section 4.1-101 of the Code of Virginia (Code) establishes the Department of Alcoholic Beverage Control (ABC Board.)

Section 4.1-103 of the Code enumerates the powers of the Board which includes the authority to adopt regulations and to do all acts necessary or advisable to carry out the purposes of Title 4.1 of the Code (ABC Act). Section 4.1-103(7) states the Board may delegate or assign any duty or task to

be performed by the Authority to any officer or employee of the Authority. Section 4.1-103(24) permits the Board to promulgate regulations in accordance with the Administrative Process Act and Section 4.1-111.

Section 4.1-111 (A) provides the Board with the authority to adopt reasonable regulations which it deems reasonable to carry out the provisions of the ABC Act and to amend or repeal such regulations.

### Alternatives

*Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

VA ABC is considering changing the regulation after a comment to a periodic review of the regulation requested that the regulation be amended to allow industry members to be permitted to sell, rent, lend, buy for, or give to any retailer, without regard to the value thereof, wine dispensing devices. The only other alternative that was consider was to retain the regulation as is; however, the agency believes that that an amendment may be warranted such that the regulation accommodates new wine dispensing technologies as well as mirror the options afforded to draft beer dispensers.

### Public Comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
The Wine Institute	The Wine Institute encourages the Board to consider revising 3VAC5-30-60(A)(1) so that it allows industry members to sell, rent, lend, buy for, or give to any retailer, without regard to the value thereof, wine dispensing devices.	The agency would like to explore possible revisions to the regulation.
The Wine Institute	The Wine Institute requests that the Board ban split case fees and add language to 3VAC5-30-90 that states that “no wholesale licensee shall charge a fee, surcharge or higher price on units sold or delivered in split, mixed or partial case.”	The agency does not agree with making this amendment and will retain the regulation as is.
The Wine Institute	The Wine Institute requested that the Board allow “sub channel pricing” to allow different prices for	The agency does not agree with making this amendment and will retain the regulation as is.

	different categories of on and off premises locations.	
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**Effectiveness**

*Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The regulation is necessary for the protection of public health, safety, and welfare because it provides guidance to the laws that govern Tied-House issues. It is clearly written and easily understandable.

**Decision**

*Please explain the basis for the rulemaking entity’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The rule making entity has decided to explore possible amendments to section 3VAC5-30-60(A)(1) of the regulation.

**Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

The regulation is still needed because it provides guidance to wholesalers, manufacturers, and retailers in regards to the Tied-House laws. The Wine Institute encourages the Board to consider revising 3VAC5-30-60(A)(1) so that it allows industry members to sell, rent, lend, buy for, or give to any retailer, without regard to the value thereof, wine dispensing devices. The Wine Institute requests that the Board ban split case fees and add language to 3VAC5-30-90 that states that “no wholesale licensee shall charge a fee, surcharge or higher price on units sold or delivered in split, mixed or partial case.” The Wine Institute requested that the Board allow “sub channel pricing” to allow different prices for different categories of on and off premises locations. The agency will explore amendments to 3VAC5-30-60(A)(1). The regulation is not complex. The last periodic review was completed in 2012 and there have not been any significant changes in economic conditions, or other factors in the area affected by the regulation; however, there have been some new wine dispensing technologies that may warrant an amendment to 3VAC5-30-60(A)(1). There has not been any identified small business impact.