



Economic Impact Analysis Virginia Department of Planning and Budget

3 VAC 5-40 – Requirements for Product Approval Alcoholic Beverage Control Board October 26, 2006

Summary of the Proposed Regulation

The Alcoholic Beverage Control Board (ABC) proposes to make several amendments to its requirements for product approval. ABC proposes to eliminate several restrictions on the content of beer and wine labels that are either obsolete or duplicative of other state or federal regulations. ABC also proposes to provisionally allow the sale of new beer and wine products 30 days after an application for approval has been filed with the agency, whether or not that application has been acted on.

Result of Analysis

The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact

Current regulation prohibits ABC from approving for sale:

- Imitation or substandard wine.
- Wine cocktails that include any ingredient other than wine.
- Wine labeled with the name of a state (named after a state) if the contents of that wine do not conform to the wine standards of the named state.
- Wine with a label that contains any reference to any game of chance.
- Beer labeled in a manner that implies product endorsement by any prominent living person.
- Beer with a label that make any humorous or frivolous reference to any intoxicating drink.

The proposed regulation will eliminate all of these restrictions because, in the case of imitation or substandard wine and wine cocktails, flavoring of wine is now permitted. For all other eliminated restrictions, other sections of either state or federal regulation adequately protect the public against these types of labeling. These proposed regulatory changes will benefit wine manufacturers and importers because this regulation will now conform to current wine additive practices.

Current regulation requires that new wine and beer products not be sold in the Commonwealth until ABC has approved the application for permission to sell these products. Since there is very often a backlog of these applications, manufacturers and importers must frequently delay selling new products for months. Since the vast majority of new products are eventually approved for sale and the products that are disapproved (for labels that contain obscenities or other prohibited language) only threaten consumers' sensibilities and not their health, ABC proposes to allow all new products with pending applications to be sold after 30 days whether or not the board has acted on their applications. If the board does eventually disapprove any product's application, the manufacturer or importer of that product would have to then suspend sales. Wholesalers and retail establishments would be allowed to continue selling the disapproved products until their stock is gone. This proposed change will benefit manufacturers and importers by allowing them to get new products to market more quickly. This change will all potentially benefit the public by increasing the choices available to them.

Businesses and Entities Affected

These proposed regulatory changes will generally affect all of the approximately 14,000 establishments that are licensed by ABC and will particularly affect the approximately 550 wine and beer manufacturers and importers who must apply to ABC for product approval.

Localities Particularly Affected

These proposed regulatory changes will affect all localities in the Commonwealth.

Projected Impact on Employment

These proposed regulatory changes will likely have no measurable effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property

Wine and beer manufacturers and importers may see some small decrease in storage and other costs associated with warehousing new products (until they can be shipped to wholesalers or retail establishments) as they will no longer have to wait longer than 30 days from the time they apply to ABC for product approval. This decreased cost will likely mean slightly increased profits for these businesses.

Small Businesses: Costs and Other Effects

ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses are unlikely to incur any new costs on account of the proposed regulation.

Small Businesses: Alternative Method that Minimizes Adverse Impact

ABC estimates that at least 95% of their approximately 14,000 licensees are small businesses. These businesses are unlikely to incur any new costs on account of the proposed regulation.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). 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.