



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**3 VAC 5-70 – Other Provisions  
Alcoholic Beverage Control Board  
December 14, 2007**

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Code of Virginia §4.1-209.1, the Alcoholic Beverage Control Board (ABC) proposes to amend its Other Provisions regulation so that wholesale distributors may provide consent for non brand-owner shippers and Internet wine retailers to ship wine or beer directly to Virginia consumers. Pursuant to Chapter 558 of the 2007 Act of the Assembly, ABC also proposes to amend this regulation to reflect a statutory requirement that Internet wine retailers follow the same record keeping and reporting standards as wine and beer shippers.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

Until recently, there was no provision in the Code of Virginia that allowed wine and beer to be sold via the Internet and shipped to individual consumers in the Commonwealth. The Code of Virginia also, until this year, only allowed beer and wine shippers to get permission from the brand owners to ship their brands of beer and wine.

In 2007, the General Assembly passed legislation that sets fees, definitions and requirements for licensure of Internet wine retailers and set rules for selling beer and wine directly to consumers. They also passed legislation that allows authorized wholesale distributors to give written permission to shippers so that they can ship the beer and wine brands that these wholesalers carry. As directed by this legislation, ABC is modifying its regulation to reflect these statutory changes.

Allowing Internet wine retailers (and beer and wine shippers in general) to sell, and ship, directly to individual consumers is likely to benefit both the sellers and buyers for these transactions. Internet wine retailers and beer and wine shippers will likely be able to earn greater revenue, and likely greater profits, from selling directly to individuals that want their product. Consumers will benefit from having more choice in where they are able to buy wine and beer. Opening up this market is also likely to increase competition for customers which may, in turn, lower the prices that consumers have to pay for these products. To the extent that individual consumers substitute Internet purchases for local retail purchases, brick and mortar stores that have been, until now, the only source of wine and beer for off site consumption will likely experience decreases in revenue.

In order to enter this market, Internet wine retailers will have to pay a (statutorily set) \$150 licensure fee and will have to follow the same bookkeeping requirements that beer and wine shippers currently follow. These standards require licensed entities to maintain, for two years after a sale, information on

- 1) The number of containers shipped,
- 2) The volume of the containers that were shipped,
- 3) The brand of beer or wine that was shipped,
- 4) The names and addresses of recipients of the shipment and
- 5) The prices charged.

Each month, Internet wine retailers will also have to file a report, with the tax management section of ABC, which lists all of the above required information for any orders shipped during the calendar month previous to the filing.

Allowing wholesale distributors, and not just brand owners, to give permission for shippers and Internet retailers to sell the brands that they distribute will likely benefit shippers and retailers as well as their customers. Shippers and retailers will likely find it easier to get permission to sell any given brand of beer or wine now that they can get that permission from multiple sources. This may mean that they will be able to offer a wider variety of products to consumers who would, presumably, prefer more choice to less.

## **Businesses and Entities Affected**

This proposed regulation will affect all 630 currently licensed beer and wine shippers as well as future holders of shipper or Internet wine retailer licenses. Brick and mortar sellers of wine and beer, as well as Virginia consumers of these products, will also be affected.

## **Localities Particularly Affected**

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

## **Projected Impact on Employment**

As this regulation, and applicable statutes, allow commercial activity that was formerly banned, jobs linked with Internet wine and beer sales will likely be created in the Commonwealth. The impact of these new jobs on total employment may be blunted to the extent that Internet sales of wine and beer replace, rather than augment, in-store sales. If this happens, job losses at brick and mortar wine and beer shops may partially offset the new jobs created.

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

The Internet sales allowed by this regulation, and applicable statutes, will likely increase revenue for licensed wine and beer shippers and Internet wine retailers. This will likely increase profits for licensees who choose to sell wine and beer over the Internet. To the extent that individual consumers substitute Internet purchases for local retail purchases, brick and mortar stores that have been, until now, the only source of wine and beer for off site consumption will likely experience decreases in revenue.

## **Small Businesses: Costs and Other Effects**

The Commonwealth currently licenses 630 beer and wine shippers; 95% of these shippers qualify as small businesses. These shippers will not incur any extra costs on account of this regulation. The Commonwealth does not currently license any Internet wine retailers, although ABC has already received two applications for such licenses. These future licensees will be subject to the same recordkeeping requirements as wine and beer shippers.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The requirements of this proposed regulation are mandated by statute and loosen restrictions on Internet wine and beer sales. Holders of wine and beer shipper licenses, and Internet wine retailer licenses, are very likely to benefit from these changes.

## **Real Estate Development Costs**

This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

## **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 36 (06). 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.