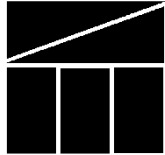


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

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 5-10 Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations**  
**Department of Alcoholic Beverage Control**  
**Town Hall Action/Stage: 4984 / 8185**  
March 1, 2018

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

The Alcoholic Beverage Control Board (Board) proposes to: 1) direct that offers in compromise be addressed to the chief hearing officer, 2) no longer require Board approval for acceptance of offers in compromise, 3) remove the limit on the number of offers in compromise that licensees may make, and 4) allow licensees more time to present an offer in compromise.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

Following notice of a disciplinary proceeding, a licensee may be afforded opportunity for the submission of an offer in compromise in lieu of suspension or in addition thereto, or in lieu of revocation of his license. The current regulation specifies that such an offer be submitted to the secretary of the Board and be subject to Board approval.

As of January 15, 2018, the Virginia Alcoholic Beverage Control Authority (ABCA) became successor in interest to the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Board.<sup>1</sup> ABCA consists of the Virginia Alcoholic Beverage Control Board of

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<sup>1</sup> See [Virginia Code § 4.1-101 B](#)

Directors (Authority Board), the Chief Executive Officer, and the agents and employees of the Authority.

Members of the Board prior to the establishment of ABCA worked full time. Positions on the Authority Board are considered part time; the Authority Board meets much less frequently than the Board has historically. Consequently, the Board proposes to amend the regulation to specify that offers in compromise be submitted to the chief hearing officer, and acceptance is not subject to Board (or Authority Board) approval. The proposal to have offers in compromise be submitted to the chief hearing officer and to allow the chief hearing officer to approve such offers without waiting for Board approval would help prevent significant delays. This would be beneficial for regulated entities and the public.

The current regulation limits licensees to two offers of compromise. The Board proposes to remove this limitation and extend the timeframe within which licensees may submit offers in compromise. Since these proposed changes are potentially beneficial for affected licensees, and do not produce significant cost for ABCA, they would likely produce a net benefit.

### **Businesses and Entities Affected**

All 13,000+ licensees could potentially be subject to disciplinary proceedings, and thus could be affected by the proposed amendments.<sup>2</sup> ABCA issues: licenses for manufacturers, wholesalers and shippers of alcoholic beverages; retail licenses for the sale of alcohol at restaurants, hotels, convenience stores, grocery stores, etc.; and banquet licenses to allow persons or groups to host events such as wedding receptions, tastings or fundraisers, where alcohol is served in an unlicensed location or club premise.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendments do not significantly affect employment.

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

The proposed amendments do not significantly affect the use and value of private property.

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<sup>2</sup> Data source: Department of Alcoholic Beverage Control

## **Real Estate Development Costs**

The proposed amendments do not affect real estate development costs.

## **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 proposed amendments do not significantly affect costs for small businesses.

### **Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not adversely affect small businesses.

## **Adverse Impacts:**

### **Businesses:**

The proposed amendments do not adversely affect businesses.

### **Localities:**

The proposed amendments do not adversely affect localities.

### **Other Entities:**

The proposed amendments do not adversely affect other entities.

## **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.