

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

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: 4983 / 8184
February 5, 2018

Summary of the Proposed Amendments to Regulation

The Alcoholic Beverage Control Board (Board) proposes to permit a designee, typically the chief hearing officer, to extend offers of consent settlement without direct approval from the Board. In addition, the Board proposes to extend the time in which the licensee may return the properly executed consent settlement with payment.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The current regulation states that “Disciplinary cases may be resolved by consent settlement if the nature of the proceeding and public interest permit. In appropriate cases, the chief hearing officer will extend an offer of consent settlement, conditioned upon approval by the board, to the licensee.” As noted, Board approval is currently required for consent settlements. Such approval was feasible under the administration of a full-time Board; however, as the Department of Alcoholic Beverage Control (ABC) transitions into an Authority, the Board will operate on a part-time basis. Maintaining the requirement of Board approval for all consent settlements would become burdensome and unrealistic for a part-time Board, and would significantly impair the consent settlement process.

Consequently, the Board proposes to amend the regulation so that a designee of the Board, typically the chief hearing officer, can extend an offer of consent settlement without direct approval from the Board. This would be beneficial in that it prevents the delay of mutually agreed upon settlements from taking place.

The current regulation states that the licensee shall return the properly executed consent order along with the payment in full of any monetary penalty within 15 calendar days from the date of mailing by the board. The Board proposes to allow licensees up to 21 days, rather than 15, to return the executed consent order with payment. Since this is acceptable to the Board and gives affected individuals more time to decide and gather funds, it should 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.¹ ABC 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.²

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.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

¹ Data source: Department of Alcoholic Beverage Control

² See <https://www.abc.virginia.gov/licenses/get-a-license>

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.