



COMMONWEALTH of VIRGINIA
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M E M O R A N D U M

To: Thomas Kirby
Interim CEO, Virginia Alcoholic Beverage Control Authority

From: James M. Flaherty
Senior Assistant Attorney General

Date: August 3, 2026

Subject: Letter of Assurance for Proposed Regulations – Retail Tobacco Permittees found at 3VAC5-90

I have reviewed the Virginia Alcoholic Beverage Control Authority's proposed regulations for Retail Tobacco Permittees found at 3VAC5-90 that were posted on the Virginia Regulatory Town Hall on July 23, 2026. In my view, as counsel to the Virginia Alcoholic Beverage Control Authority, these regulations may be promulgated pursuant to Title 4.1 of the Code of Virginia. The regulations do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect. The regulations also appear to be exempt from the rulemaking process due to the sixth enactment clause of Chapters 1021 and 1044 of the 2026 Acts of Assembly.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.