



Economic Impact Analysis Virginia Department of Planning and Budget

3 VAC 5-70 – Other Provisions
Department of Alcoholic Beverage Control
May 31, 2011

Summary of the Proposed Amendments to Regulation

The Alcoholic Beverage Control Board (Board) proposes a new section 3 VAC 5-70-250, providing a process whereby licensees charged with a violation of statute or board regulation may be placed upon probation and have proceedings deferred and ultimately dismissed in lieu of license suspension or monetary penalty, in cases where the charge represents the first violation by the licensee within five years.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Chapters 135 and 279 of the 2009 *Acts of Assembly*, which are now codified in Virginia Code § 4.1-227, require the board to promulgate a regulation that would “establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation.” The proposed action would implement this Code section.

The proposed changes would allow the Board to waive disciplinary proceedings in situations in which the violation was not willful and knowing, so long as it is the first offense in five years. All offenses would be eligible for consideration. In these cases, the licensee would be placed on probation, which would include mandated seller/server or manager training, and further compliance with Alcoholic Beverage Control laws and regulations. The Board would then dismiss the charges upon successful completion of the probation.

According to the Department of Alcoholic Beverage Control (Department), the Board currently on occasion suspends punishment conditioned upon training or other conditions. The proposed new section would essentially just formalize the current practice. Since the proposal clarifies current practice and does not practically change any requirements, it creates a net benefit. Additional clarity is beneficial for affected entities and the public; and no new costs are introduced.

Businesses and Entities Affected

The proposed amendments potentially affect all holders of licenses issued by the Department. According to the Department, there are approximately 16,000, of which an estimated 90% are small businesses.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposal amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to significantly affect the use and value of private property.

Small Businesses: Costs and Other Effects

The proposed amendments do not significantly affect costs for small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Real Estate Development Costs

The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act

and Executive Order Number 14 (10). Section 2.2-4007.04 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 2.2-4007.04 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.