



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

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### **3 VAC 5-40 – Requirements for Product Approval Alcoholic Beverage Control Board January 3, 2013**

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

The Alcoholic Beverage Control Board (ABC) proposes to amend its regulations to 1) consolidate product approval regulations for wine and beer, 2) remove the requirement that applicants provide a certified copy of federal label approval, 3) allow wine tasting at farm wineries of wine drawn directly from the barrel, 4) allow sale of wine and hard cider growlers for off premises consumption and 5) set the maximum allowable volume of beer pitchers at 64 fluid ounces.

#### **Result of Analysis**

Benefits likely outweigh costs for implementing these proposed changes.

#### **Estimated Economic Impact**

Currently, ABC splits rules for product approval for wine and beer so that there are two, nearly duplicative parts to current regulations. ABC proposes to consolidate these two parts so that the length of these regulations is cut and to clarify for affected entities that wine and beer are subject to the same rules in these regulations. No affected entity is likely to incur any costs on account of this change but affected entities are likely to get some small benefit from the additional clarity that this change will likely bring.

Current regulations require entities seeking approval to sell a new beer or wine in the Commonwealth to provide, as a part of the approval process, a certified copy of label approval from the appropriate federal agency. ABC proposes to only require a copy of such label approval since the federal agency no longer provides certified copies. Affected entities will benefit from

this change as current regulation requires them to provide something that they cannot procure. No entity is likely to incur any costs on account of this change.

Current regulations require wine to be bottled before it can be sold even at the originating winery. ABC proposes to allow wineries to sell samples of wine taken directly from barrels so long as they keep track of the volume of wine sold in such a manner and comply with Virginia's tax code. No entity is likely to incur any net cost increases on account of this change; wineries are likely to benefit from this change because they will not have to incur the costs of bottling the wine they intend to serve at wine tastings on premises.

Current regulations allow the sale for off premises consumption of beer in reusable, resealable containers of not more than 64 fluid ounces that are known as growlers. Wine and hard cider for off premises consumption may currently only be sold in non- resealable bottles with the original seal unbroken. ABC proposes to change its regulations so that wine and hard cider may also be sold in growlers. This change will benefit sellers of wine and hard cider as it allows them greater flexibility to bottle their product in the most efficient, least costly manner possible.

Current regulations allow the sale of beer in pitchers for onsite consumption but do not specify the size of such pitchers. ABC now proposes to amend these regulations so that beer for onsite consumption may be served in pitchers of up to 64 fluid ounces. ABC set this standard with input from licensees who serve beer onsite (bars, etc) who reported to ABC that 64 ounces was the usual size for beer pitchers.

## **Businesses and Entities Affected**

ABC reports that approximately 1,000 businesses would be potentially affected by these proposed regulatory changes; 60% of these entities would meet the Commonwealth's definition of small business.

## **Localities Particularly Affected**

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

## **Projected Impact on Employment**

This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

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

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

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

No small business is likely to incur any costs on account of this regulatory action.

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

No small business is likely to incur any costs on account of this regulatory action.

## **Real Estate Development Costs**

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

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the Board 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.