



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Alcoholic Beverage Control Board
VAC Chapter Number:	3 VAC 5-30
Regulation Title:	Tied-House
Action Title:	Customized Advertising Materials
Date:	3/2/01

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The Alcoholic Beverage Control Board intends to amend 3 VAC 5-30-60, which generally sets forth the types of goods and services alcoholic beverage manufacturers, bottlers, or wholesalers may provide to retailers. The contemplated amendment would allow alcoholic beverage manufacturers, bottlers, and wholesalers to provide advertising materials to retail licensees which have been customized for the individual retailer, with some restrictions.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

§§ 4.1-103 and 4.1-111 of the Code of Virginia authorize the Board to promulgate regulations which it deems necessary to carry out the provisions of the Alcoholic Beverage Control Act. § 4.1-111 also specifically requires the Board to promulgate regulations which maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers. 3 VAC 5-30-60 is designed to carry out this requirement by limiting the types of inducements, in the nature of goods or services, that may be offered by manufacturers, bottlers, or wholesalers to retailers.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Board contemplates amending subsection G of 3 VAC 5-30-60 to remove the present prohibition against manufacturers, bottlers, or wholesalers providing point-of-sale advertising materials to a retailer which have been customized for that retailer. The Board expects to enact limitations to such customized advertising, requiring that any such materials comply with all other Board regulations, be for interior use only, only contain references to the products sold by the particular manufacturer, bottler, or wholesaler providing the materials, and that the service if offered must be made available to all retailers. The Board has determined that this action will enable alcoholic beverage manufacturers, bottlers, and wholesalers to promote their products in a manner similar to that used by other consumer products suppliers in the retail market, while the limitations will protect the health, safety or welfare of the public by preventing undue influence on retailers.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Total repeal of the prohibition of customized advertising, without limiting provisions, has been considered, but is felt not to be in the interest of public health, safety or welfare. Other alternatives to be considered include taking no action or adopting additional limitations on customized advertising which have not yet been identified.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children;

2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory will have no impact on families.