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# Regulations

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sample containers left with the licensee shall not be sold by the licensee;

3. Promote ~~their~~ his authorized brands of spirits at conventions, trade association meetings, or similar gatherings of organizations, a majority of whose membership consists of mixed beverage licensees or spirits representatives for the benefit of their members and guests, and shall be limited as follows:

- a. To sample servings from containers of spirits purchased from government stores when the spirits donated are intended for consumption during the gathering;
- b. To displays of spirits in closed containers bearing the word "sample" in lettering of reasonable size and informational signs provided such merchandise is not sold or given away except as permitted in this section;
- c. To distribution of informational brochures, pamphlets and the like, relating to spirits;
- d. To distribution of novelty and specialty items bearing spirits advertising not in excess of \$10 in wholesale value;
- e. To film or video presentations of spirits which are essentially educational;
- f. To display at the event the brands being promoted by the permittee;
- g. To rent display booth space if the rental fee is the same as paid by all exhibitors at the event;
- h. To provide its own hospitality, which is independent from activities sponsored by the association or organization holding the event;
- i. To purchase tickets to functions and pay registration fees if the payments or fees are the same as paid by all attendees, participants, or exhibitors at the event; and
- j. To make payments for advertisements in programs or brochures issued by the association or organization holding the event if the total payments made for all such advertisements do not exceed \$300 per year for any association or organization holding the event; or

4. Provide or offer to provide point-of-sale advertising material to licensees as provided in 3VAC5-20-20 or 3VAC5-30-80.

E. Prohibited activities. A permittee shall not:

1. Sell spirits to any licensee, solicit or receive orders for spirits from any licensee, provide or offer to provide cash discounts or cash rebates to any licensee, or to negotiate any contract or contract terms for the sale of spirits with a licensee;
2. Discount or offer to discount any merchandise or other alcoholic beverages as an inducement to sell or offer to sell spirits to licensees;

3. Provide or offer to provide gifts, entertainment or other forms of gratuity to licensees except that a permittee may provide a licensee "routine business entertainment," as defined in 3VAC5-30-70, subject to the same conditions and limitations that apply to wholesalers and manufacturers under that section;

4. Provide or offer to provide any equipment, furniture, fixtures, property or other thing of value to licensees except as permitted by this regulation;

5. Purchase or deliver spirits or other alcoholic beverages for or to licensees or provide any services as inducements to licensees, except that this provision shall not preclude the sale or delivery of wine or beer by a licensed wholesaler;

6. Be employed directly or indirectly in the manufacturing, bottling, importing or wholesaling of spirits and simultaneously be employed by a retail licensee;

7. Solicit licensees on any premises other than on their licensed premises or at conventions, trade association meetings or similar gatherings as permitted in subdivision D 3 of this section;

8. Solicit or promote any brand or brands of spirits without having on file with the board a letter from the manufacturer or brand owner authorizing the permittee to represent such brand or brands in the Commonwealth; or

9. Engage in solicitation of spirits other than as authorized by law.

F. Refusal, suspension or revocation of permits.

1. The board may refuse, suspend, or revoke a permit if it shall have reasonable cause to believe that any cause exists ~~which that~~ would justify the board in refusing to issue such person a license, or that such person has violated any provision of this section or committed any other act that would justify the board in suspending or revoking a license.

2. Before refusing, suspending, or revoking such permit, the board shall follow the same administrative procedures accorded an applicant or licensee under Title 4.1 of the Code of Virginia and regulations of the board.

V.A.R. Doc. No. R17-4769; Filed November 14, 2016, 6:26 p.m.

## **Fast-Track Regulation**

**Title of Regulation:** 3VAC5-70. **Other Provisions** (amending 3VAC5-70-20).

**Statutory Authority:** § 4.1-103, 4.1-111, and 4.1-213 of the Code of Virginia.

**Public Hearing Information:** No public hearings are scheduled.

**Public Comment Deadline:** January 11, 2017.

**Effective Date:** February 3, 2017.

**Agency Contact:** Shawn Walker, Director of Law Enforcement, Department of Alcoholic Beverage Control,

2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4569, FAX (804) 213-4411, or email shawn.walker@abc.virginia.gov.

**Basis:** Section 4.1-103 of the Code of Virginia authorizes the board to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and § 4.1-111 of the Code of Virginia authorizes the board to amend or repeal regulations adopted by it in accordance with the Administrative Process Act.

**Purpose:** The purpose of the amendments are to conform to the language found in § 4.1-213 of the Code of Virginia, which was amended by Chapter 787 of the 2014 Acts of Assembly to eliminate the minimum size and one gallon maximum limitations on the size of cider containers. The amendments will have no adverse impact on the health, safety, or welfare of the citizens of the Commonwealth.

**Rationale for Using Fast-Track Rulemaking Process:** This proposal is expected to be noncontroversial as the proposed amendment is merely bringing the regulation into conformity with the language of § 4.1-213 of the Code of Virginia related to the permitted sizes of containers of cider. The change in this statute was promulgated at the request of members of the regulated community.

**Substance:** The amendments remove the minimum container size of 375 milliliters and the maximum size limitation of one-gallon and add language consistent with § 4.1-213 D of the Code of Virginia related to the container sizes of cider.

**Issues:** The primary advantage for the agency and regulated community is to update the regulation to conform with § 4.1-213 D of the Code of Virginia. There are no disadvantages to the public or the Commonwealth.

**Department of Planning and Budget's Economic Impact Analysis:**

Summary of the Proposed Amendments to Regulation. The Alcoholic Beverage Control Board (Board) proposes to conform this regulation to statutory language in 2014 legislation concerning the sale of cider.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. Chapter 787 of the 2014 Acts of Assembly<sup>1</sup> added the following to § 4.1-213 of the Code of Virginia:

"Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations."

The Board proposes to add this same language to the regulation. Adding the language to the regulation will have no impact on the law in effect, but may be beneficial in that

readers of the regulation may be better informed of the law in effect concerning the permitted sale of cider in the Commonwealth.

**Businesses and Entities Affected.** As the proposed language is already in statute, adding it to the regulation does not affect anyone beyond potentially enlightening readers of the regulation who are not aware of the statute.

**Localities Particularly Affected.** The proposed amendment does not disproportionately affect particular localities.

**Projected Impact on Employment.** The proposed amendment does not significantly affect employment.

**Effects on the Use and Value of Private Property.** The proposed amendment does not affect the use and value of private property.

**Real Estate Development Costs.** The proposed amendment does not affect real estate development costs.

**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 amendment does not affect costs for small businesses.

**Alternative Method that Minimizes Adverse Impact.** The proposed amendment does not adversely affect small businesses.

**Adverse Impacts:**

**Businesses.** The proposed amendment does not adversely affect businesses.

**Localities.** The proposed amendment does not adversely affect localities.

**Other Entities.** The proposed amendment does not adversely affect other entities.

<sup>1</sup> See <http://leg1.state.va.us/cgi-bin/legp504.exe?141+ful+CHAP0787>

**Agency's Response to Economic Impact Analysis:** The Department of Alcoholic Beverage Control concurs with the economic impact analysis prepared by the Department of Planning and Budget.

**Summary:**

*Pursuant to Chapter 787 of the 2014 Acts of Assembly, the amendments expand the sizes of containers in which cider is permitted to be sold in the Commonwealth.*

**3VAC5-70-20. Procedures for handling cider; authorized licensees; containers; labels; markup; age limits.**

A. The procedures established by regulations of the board for the handling of wine having an alcoholic content of not more than 14% by volume shall, with the necessary change of

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# Regulations

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detail, be applicable to the handling of cider, subject to the following exceptions and modifications.

B. Licensees authorized to sell beer and wine, or either, at retail are hereby approved by the board for the sale of cider and such sales shall be made only in accordance with the age limits set forth ~~below~~ in this section.

C. Containers of cider ~~shall have a capacity of not less than 12 ounces (375 milliliters if in a metric sized container) nor more than one gallon (three liters if in a metric sized container);~~ containing less than 7.0% alcohol by volume may be sold in any containers that comply with federal regulations for wine and beer provided such containers are labeled in accordance with board regulations. Cider containing 7.0% of more alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided the containers are labeled in accordance with board regulations.

D. If the label of the product is subject to approval by the federal government, a copy of the federal label approval shall be provided to the board.

E. The markup or profit charged by the board shall be \$.08 per liter or fractional part thereof.

F. Persons must be 21 years of age or older to purchase or possess cider.

G. The provisions of subsection A and subdivision B 4 of 3VAC5-60-20 shall not be applicable to the sale of cider by wholesale wine licensees to retail licensees of the board.

V.A.R. Doc. No. R17-4756; Filed November 14, 2016, 6:06 p.m.

*developments; (iii) increase the maximum per-development credit limit in the nonprofit pool; (iv) reduce the number of points awarded to applicants for providing a leasing preference to persons on public housing waiting lists; (v) for both elderly and family developments, implement a new sliding point scale for developments located in areas of economic opportunity, defined based upon census data, and delete language limiting points to census tracts with no other such development; (vi) define permissible uses of community rooms receiving points; (vii) revise amenity point requirements for certain windows and glass doors, internet service, and bath vent fans; (viii) increase points for developments with project-based vouchers and meeting listed criteria; (ix) extend points for providing preference to persons with developmental disabilities to an additional existing category of developments; (x) increase points for EarthCraft and LEED Gold developments; (xi) eliminate points for EarthCraft Platinum; (xii) provide points for certain developments with tenant utility monitoring and benchmarking; (xiii) increase points for developments applying for both 4.0% and 9.0% credits; (xiv) reduce developer experience points based on penalties for certain nonperformance; (xv) provide additional points for rental assistance demonstration deals competing in the local housing authority pool; (xvi) delete the 20% limit on credits in any pool for developments for the elderly; and (xvii) make other miscellaneous administrative or clarifying changes.*

## 13VAC10-180-50. Application.

Prior to submitting an application for reservation, applicants shall submit on such form as required by the executive director, the letter for authority signature by which the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located to provide such officers a reasonable opportunity to comment on the developments.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information (including, without limitation, a market study that shows adequate demand for the housing units to be produced by the applicant's proposed development) as may be requested by the authority in order to comply with the IRC and this chapter and to make the reservation and allocation of the credits in accordance with this chapter. The executive director may reject any application from consideration for a reservation or allocation of credits if in such application the applicant does not provide the proper documentation or information on the forms prescribed by the executive director.

All sites in an application for a scattered site development may only serve one primary market area. If the executive director determines that the sites subject to a scattered site

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## TITLE 13. HOUSING

### VIRGINIA HOUSING DEVELOPMENT AUTHORITY

#### Final Regulation

**REGISTRAR'S NOTICE:** The Virginia Housing Development Authority is claiming an exemption from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4 of the Code of Virginia.

**Title of Regulation:** 13VAC10-180. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (amending 13VAC10-180-50, 13VAC10-180-60).

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

**Effective Date:** January 1, 2017.

**Agency Contact:** Paul M. Brennan, General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5798, or email paul.brennan@vhda.com.

#### Summary:

*The amendments (i) update the per unit cost limits; (ii) set a maximum permissible minimum income requirement for tenants receiving rental assistance that is applicable to all*