

# Senate Rehabilitation & Social Services ABC Committee

## MBAR Reform Options and Plan for License and Fee Restructuring

September 18, 2018



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# Summary of ABC Stakeholder Meeting (9/7/18)

- MBAR:
  - While there was no consensus within the group around the need or method for making changes to the MBAR, for those stakeholders who did want to see change, there was a gravitation towards considering the amount of spirits purchased (volume) and a tiered approach based on the size of the establishment. It was suggested to use an establishment's Certificate of Occupancy to help calculate the ratio.
  - Some felt that there were no changes needed to the current ratio, just tougher enforcement with higher fines and heavier consequences for failure to meet the ratio
  - Stakeholders confirmed the benefit of working with ABC enforcement on the training of new agents and items to look for when doing MBAR inspections
  - There was mention of possibly creating a special craft cocktail license that could apply to establishments with high cost spirits

# Summary of ABC Stakeholder Meeting (9/7/18) (cont'd)

- Another idea that was brought up was to do something for those licensees who purchase below a certain threshold of spirits – this would effectively exempt out the smallest operators from the MBAR requirement or the food to mixed beverage ratio
- There was also noted support for requiring food sales to go up with the increase in spirits sales (i.e. if a minimum amount of food sales was established based on occupancy, that minimum amount would increase as spirits sales increase)
- License Consolidation and Fees:
  - The majority of stakeholders agreed that ABC should conduct a full review and consolidation of all licenses (retail and wholesale)
  - In some cases, the license fee is not commiserate with the size and scale of the licensed establishment (e.g. annual MB motor sports facility license is \$300)

# Summary of ABC Stakeholder Meeting (9/7/18) (cont'd)

- There was some desire to create a matrix for on and off-premise sales where fees are driven by privileges
- Those who spoke about license consolidation were supportive of licensee fee increases as long as the increased funds were used to support increased ABC enforcement
- Stakeholders requested a breakdown of ABC agent activities and the time ABC spends regulating licensees from license application to inspection to hearings and adjudication
- Evaluation of licenses and fees should consider the time ABC spends on licensing and enforcement of special events such as festivals
- While there may be opportunities to consolidate select licenses now, an analysis of enforcement costs for all license types may reveal a more effective long-term consolidation plan

## Path Forward:

- The goal is that Stakeholders and ABC would have a plan for changes in place by Memorial Day 2019

# MBAR Reform – Liter Sales Approach

- For calculation of the ratio, replace spirits' sales (\$\$) with quantity of spirits' sales (liters)
- This approach maintains the focus on public safety and strives to eliminate disparate results due to pricing variations
- For each liter sold by the MB licensee, that licensee would need to sell a certain dollar value of food to meet the 45/55 ratio (see next slide for example)
- There would be changes to the way licensees report information for compliance
- There would be no change to the current food to MB ratio (45/55)
- ABC would conduct periodic reviews of the calculation to potentially make adjustments as needed

# MBAR Reform – Example of Liter Sales Approach

- Assuming that the average cost of a mixed beverage in VA is between \$7 - \$8 per drink:
  - For each drink sold, a licensee would need to sell between \$5.73 and \$6.55 in food
  - For each liter sold, a licensee would need to sell between \$79.09 and \$98.45 in food to meet the current 45/55 ratio

# MBAR Reform – Minimum Food Sales Exemption

- Make the MBAR requirement based on a food sales threshold
  - If the minimum threshold is met in food sales, there would be no MBAR requirement for that establishment
  - The threshold would be high enough that by meeting it, a licensee would be proving that they are a bona fide restaurant (e.g. \$500k)
  - There would still be a requirement for *MBAR-exempt* licensees to provide an annual certification via affidavit declaring total monthly food sales

# MBAR Reform – Enforcement Penalties

- For late or inaccurate submittal:
  - Current =
    - 1<sup>st</sup> offense – 7 day suspension or \$500.00 fine
    - 2<sup>nd</sup> offense – 10 days suspension or \$1000.00 fine
  - Proposed = Mandatory suspension of privileges and reinstatement fee
- For non-submittal by final adjudication:
  - Current = Revocation of license
- For not meeting ratio:
  - Current =
    - Varies depending on how far the licensee is from meeting the ratio
    - Possibilities include warning, suspension, and/or revocation of license
- For fraudulent reporting:
  - Current = revocation of license

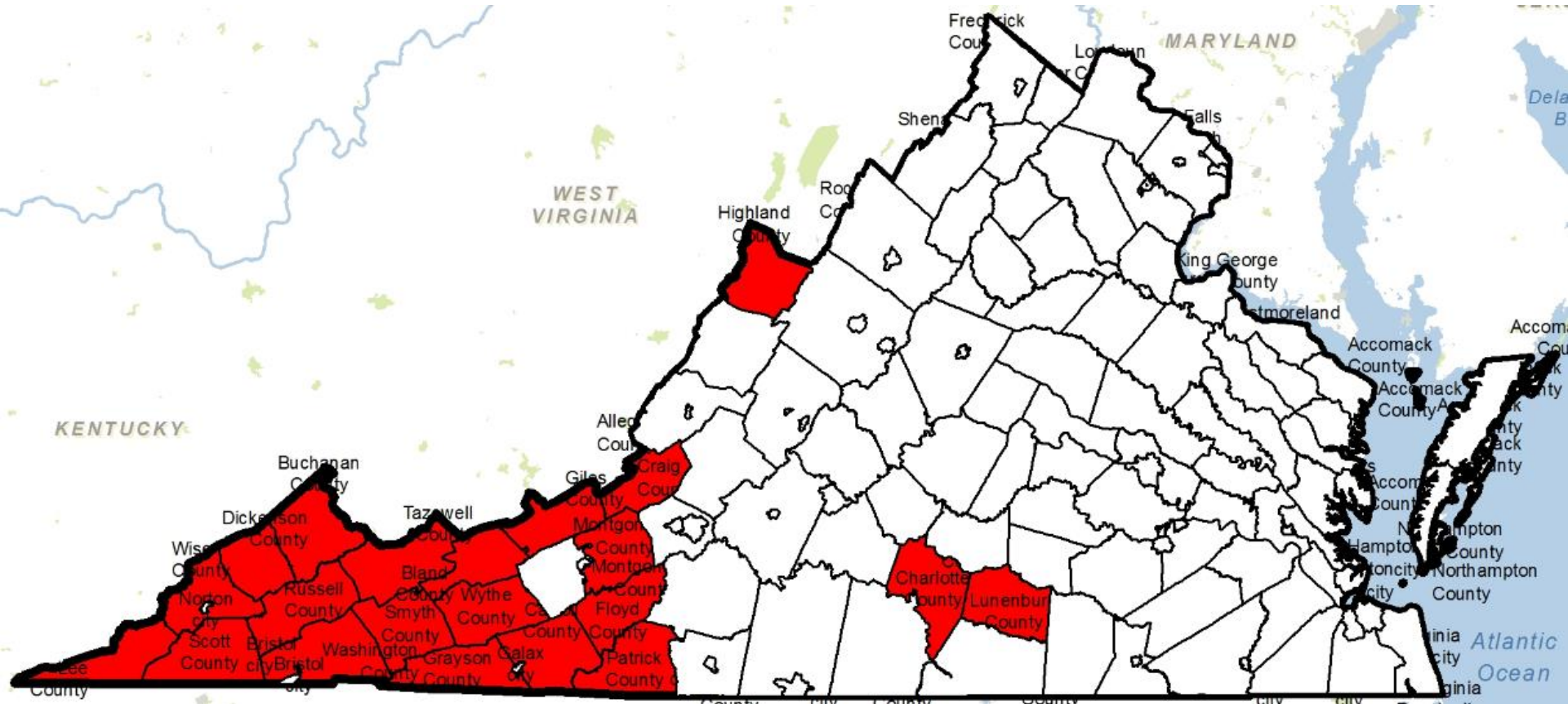


# License and Fee Restructure

- A comprehensive evaluation to include retail and wholesale and supplier licenses will be initiated immediately
- Suggested revisions to fees will consider the time ABC spends regulating licensees from license application to inspection to hearings and adjudication
- Stakeholder feedback that has been collected will be taken into consideration during the redesign and will continue to be gathered throughout the revamp effort
- The goal is for us to have the study done and a conceptual design for consideration by stakeholders by May 31, 2019

# Appendix

# “Dry” Map – Current Day



- “Dry” means the counties that do not permit the consumption of liquor by the drink.
- Exceptions may exist for towns or supervisor’s election districts within certain county borders