



Joint Subcommittee of the Senate Committee on
Rehabilitation and Social Services and the House
Committee on General Laws

Alcoholic Beverage Control

November 25, 2019, at 9:00 a.m.

Pocahontas Building, House Committee Room

http://dls.virginia.gov/interim_studies_abcrs.html

The Joint Subcommittee of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws (the Subcommittee) studying alcoholic beverage control issues met in Richmond with Senator Bryce E. Reeves and Delegate Barry D. Knight, chairmen, presiding.¹ The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [Commission's website](#).

Presentation: Report and Recommendations Related to Licensure and Fee Reform

Travis Hill, Chief Executive Officer, Virginia Alcoholic Beverage Control Authority

In a letter dated December 11, 2018, the Alcoholic Beverage Control (ABC) Subcommittee of the Senate Committee on Rehabilitation and Social Services requested that the Virginia ABC Authority (the Authority) perform the following tasks during the 2019 interim and report its findings to the ABC subcommittees of the Senate Committee on Rehabilitation and Social Services and the House Committee on General Laws: (i) conduct a comprehensive examination of the Commonwealth's current ABC licenses and permits and develop a proposal to consolidate such licenses and permits in a manner that simplifies licensure and permit categories, accommodates both current and anticipated licensure and permit needs, and confers equal sampling privileges among licensees where appropriate; (ii) explore the creation of a marketplace license that could be used to replace many or all of the current ABC licenses issued to establishments that serve, but do not sell, alcoholic beverages and to accommodate other business models for which such privilege would be appropriate; (iii) analyze all fees, taxes, and other charges currently collected by the Authority and determine whether such fees, taxes, and charges should be raised, lowered, or restructured to better align with the licenses and privileges extended in exchange for such fees, taxes, and charges, as well as the resources necessary to administer, monitor, and enforce such licenses and privileges; and (iv) consult with all relevant stakeholders in conducting its examination and creating its recommendations.

¹ Members Present: Senators Bryce E. Reeves (chairman), T. Montgomery "Monty" Mason, Jeremy S. McPike, and Lionell Spruill, Sr., and Delegates Barry D. Knight (chairman), Lashrecse D. Aird, David L. Bulova, C. Todd Gilbert, Jerrauld C. "Jay" Jones, James A. Leftwich, Jr., James W. Morefield, and Luke E. Torian.
Members Absent: Senators Bill R. DeSteph, Jr., and Ryan T. McDougle and Delegates Jason S. Miyares and Christopher K. Peace.

Mr. Hill stated that, in response to this letter, the Authority created an internal work group to conduct research and make recommendations on the items set forth in the letter. The work group met weekly throughout the 2019 interim and hosted multiple stakeholder meetings in which industry representatives were informed of the work group's progress and given an opportunity to provide feedback on the Authority's final report and recommendations.

Mr. Hill stated that, through this process, the work group was able to formulate recommendations for all of the issues raised in the December 11 letter, which were all included in the Authority's final report.² Regarding licensure and permit consolidation, Mr. Hill explained that the Authority identified many opportunities to consolidate licenses and permits throughout Title 4.1 of the Code of Virginia. For example, it recommended that instead of having freestanding permits to allow licensees to make deliveries or sell alcoholic beverages in kegs, these permit privileges could be rolled into the direct privileges of any license that allows off-premises sales. It also recommended that multiple licenses carrying the same privileges be consolidated into a single license. For example, a single license could be created for many establishments licensed for off-premises sales, including convenience grocery stores, delicatessens, drugstores, gift shops, gourmet oyster houses, gourmet shops, grocery stores, and marina stores. Moreover, rather than requiring on-premises licensees to obtain a separate license for off-premises sales, additional license consolidations could be accomplished by providing off-premises sale privileges to any person licensed for on-premises sales. Another group of licenses could be consolidated by providing wine and beer privileges to any licensee authorized to sell beer only.

Regarding the creation of a marketplace license, Mr. Hill explained that, over time, many licenses have been added to the Code of Virginia to allow various establishments to provide complimentary wine and beer to customers. The primary business function of these establishments is not the sale of alcohol; wine or beer are simply provided to customers in an effort to enhance their experience at the establishment. Mr. Hill suggested that the licenses created for such establishments—day spas, meal-assembly kitchens, bespoke clothiers, coworking establishments, art instruction studios, and canal boats—could be consolidated into a single marketplace license with more generalized eligibility requirements. The marketplace license would accommodate the aforementioned licensees and allow for the addition of other establishments that may wish to provide complimentary drinks in the future without the need to appear before the General Assembly for the creation of a new carve-out license.

Mr. Hill stated that the Authority, in assessing current state license fee amounts, split all ABC licenses into 12 categories based on license privileges. It calculated the enforcement and administrative resources required to administer the licenses in each category and formulated suggestions for changes to the current fee amounts based on these findings. The Authority included its recommendations regarding the new fee amounts in its final report.

Finally, Mr. Hill explained that the Authority conducted extensive research on all of the ABC licenses that allow licensees to provide samples of wine, beer, or spirits to patrons and found that among these licenses, the quantity limitations on allowable samples varied from license to license. In an effort to level the playing field and simplify these sampling privileges, Mr. Hill suggested that the quantity limitations on licenses that carry a sampling privilege be

² The full text of the Authority's final report can be found here:
<https://www.abc.virginia.gov/library/licenses/pdfs/license-reform/license-reform-final-report.pdf>.



standardized. Specifically, all licensees offering complimentary drinks through a marketplace-style license would be limited to serving two 12-ounce glasses of beer or two five-ounce glasses of wine. For all other licenses with sampling privileges, which are primarily used to educate the consuming public about the alcoholic beverages being tasted, the following quantity limits would be imposed: four-ounce samples of beer and a maximum of 16 total ounces, two-ounce samples of wine and a maximum of eight total ounces, and half-ounce samples of spirits or one and one-half ounces if served as a mixed beverage and a maximum of three total ounces.

Presentation: Overview of Legislation Accompanying ABC Report

David May, Senior Attorney, Division of Legislative Services

Mr. May provided an overview of the proposed legislation that would implement the recommendations included in the Authority's final report. Mr. May explained that while the legislation would be lengthy, its framework boils down to four key concepts: reorganization of licenses, consolidation of licenses, standardization of quantity limitations on samples, and license fee adjustment.

Regarding license reorganization, Mr. May explained that, under current law, ABC licenses are spread out among seven code sections without complete organization. For example, while some mixed beverage licenses are located in § 4.1-210, others can be found in § 4.1-206. To remedy this issue and allow licensees to better navigate the statutory scheme of available licenses, the proposed legislation reorganizes all ABC licenses into three code sections based on the three-tier structure under which the Commonwealth's ABC industry operates. Accordingly, licenses are split into the following categories: manufacturers, wholesalers, and retailers. Moreover, the retail license section, which includes the largest number of licenses of the three-tier categories, is organized by license privileges into the following six categories: mixed beverage licenses, on-and-off-premises wine and beer licenses, off-premises wine and beer licenses, banquet and event licenses, marketplace licenses, and shipper and bottler licenses.

To achieve license consolidation, Mr. May explained that the proposed legislation lowers from 70 to 45 the number of ABC licenses in Title 4.1 via five categorical modifications. First, many licenses that carry the same privileges would be consolidated into a single license. Second, rather than offering beer-only licenses, such licenses would contain wine and beer privileges. Third, all licensees authorized to conduct on-premises sales would also be authorized to conduct off-premises sales without having to obtain a separate, additional license. Fourth, all licensees with off-premises privileges would be authorized to make deliveries and sell alcoholic beverages in kegs without having to obtain separate permits for such privileges. Fifth, all one-off licenses with the privilege of providing complimentary wine and beer to customers would be consolidated into a single marketplace license.

Mr. May explained that, under the reorganized and consolidated license system, the quantity limitations imposed on all licenses that contain sampling privileges are standardized in accordance with the framework explained previously by Mr. Hill. Mr. May further explained that in the proposed legislation, the code sections relating to license fees are restructured to accommodate the aforementioned reorganization and consolidation, as well as the proposed fee adjustments recommended by the Authority.



Vote

By a vote of 11-1, the Subcommittee voted to approve the legislation and introduce it for review by the General Assembly during the 2020 Session.

For more information, see the [Commission's website](#) or contact the Division of Legislative Services staff:

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