

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB2258H2

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Robinson

3. Committee: House Appropriations

4. Title: Beer distribution

5. Summary: The proposed bill creates a restricted wholesale beer license that authorizes the licensee to provide wholesale beer distribution services to brewery and limited brewery licensees, provided that no more than 500 barrels of beer are distributed by the licensee in any one calendar year.

The bill requires the Commissioner of Agriculture and Consumer Services to establish and operate a nonprofit, nonstock corporation as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for Virginia breweries and limited breweries. Such corporation shall provide wholesale beer distribution services for Virginia breweries and limited breweries licensed in accordance with § 4.1-206.1 (manufacturer licenses). The board of directors of such corporation must be composed of the Commissioner and four members appointed by the Board, (i) two of whom must be an owner or manager of a Virginia beer wholesale licensee, (ii) one of whom must be an owner or manager of a brewery or limited brewery licensee, and (iii) one of whom must be an owner or manager of a brewery or limited brewery licensee that is not served by a wholesaler at the time such owner or manager is appointed to the board of directors.

The bill provides that at least annually, the corporation must report to the Commissioner on its activities, including reporting the quantity of beer distributed for each brewery or limited brewery licensee during the preceding year and the Commissioner must report activities of the corporation to the General Assembly.

The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) do not apply to the establishment of the corporation nor to the exercise of any of its powers granted under § 3.2-102 (General powers and duties of the Commissioner).

The bill prohibits the Board of Directors of the Virginia Alcoholic Beverage Control Authority from granting a wholesale beer license or wholesale wine license to any officer, director, or principal stockholder of a manufacturer of alcoholic beverages or to the spouse of such person; however, the bill exempts from such prohibition any spouse of an officer,

director, or principal stockholder of a brewery or limited brewery licensee that was granted such license prior to January 1, 2024.

- 6. Budget Amendment Necessary:** Yes. Item 98.
- 7. Fiscal Impact Estimates:** Preliminary (see Item 8 below)
- 8. Fiscal Implications:** According to the Alcoholic Beverage Control Authority (“ABC”), the bill is not expected to create a material fiscal impact on agency resources.

According to the Virginia Department of Agriculture and Consumer Services (“VDACS”), the bill is expected to have a revenue and expenditure impact. VDACS anticipates requiring \$677,800 from the general fund in FY 2024 and \$433,600 each year thereafter, and two full-time equivalent positions. This estimate is based on the agency’s experience with the Virginia Winery Distribution Company established in §3.2-102, Code of Virginia.

Additionally, the bill directs the board of the new corporation to establish a transaction fee schedule for transactions completed by the corporation established in this bill. As this board will only be formed upon passage of this bill, it is not possible at this time to determine the fee schedule the board will establish. Based on estimates from the Virginia Beer Wholesalers Association, VDACS anticipates that approximately 20 breweries will participate in FY 2024 and that participation will increase to approximately 200 in FY 2028. The bill does not specify that VDACS shall retain revenue that may be generated from the transaction fee authorized in this bill. If VDACS is permitted to retain the fee revenue, a portion of the general fund expense may be offset.

- 9. Specific Agency or Political Subdivisions Affected:** Alcoholic Beverage Control Authority, Department of Agriculture and Consumer Services
- 10. Technical Amendment Necessary:** No
- 11. Other Comments:** None