

**Special Joint Subcommittee
of the
House Committee on General Laws
and the
Senate Committee on Rehabilitation and Social Services
Studying Certain Alcoholic Beverage Control (ABC) laws
Monday, May 16, 2016
1:00 p.m.
Senate Room B
General Assembly Building**

Suggested Agenda

1. Call to order.
2. Continuation of Study Plan: Issue: 45 Percent Food-to-beverage ratio for Mixed Beverage Licensees.
 - History of liquor-by-the-drink
 - Pictorial history of "Dry" Counties in Virginia from 1968 to present in 20 year increments
 - Other States' Approaches
 - Mixed Beverage Annual Review (MBAR), the mechanics
 - Compliance Issues; latest statistics
 - Role of food and/or meals in licensing and enforcement, including alcohol absorption research results
3. Review of Prior "Ratio" bills--2009 to 2015.
 - **2009 through 2013**--No bills
 - **2014**
 - SB 502 / Chapter 633 (Favola and Ebbin) - modified "limited mixed beverage restaurant licenses" to prohibit such licensees from having sales of wine or liqueur-based drinks, together with the sale of any other alcoholic

beverages, exceeding 10 percent of its total annual gross sales of all food and alcoholic beverages. Prior law did not factor into the equation the sale of other alcoholic beverages and simply used the term gross sales; rather than gross sales of all food and alcoholic beverages"

- SB 642 (McEachin) - sanctions for violations of the mixed beverage ratio

- **2015**

- HB 1814 (DeSteph) - modified the food-beverage ratio to require that sales from food and nonalcoholic beverages meet or exceed 75% of mixed beverage sales
- HB 1815 (DeSteph) - added as an alternative to the 45% ratio a minimum monthly food sales requirement of \$4,000

4. Review of 2016 "Ratio" bills referred to Study¹:

HB 171 (Albo) Mixed beverage ratio;

HB 219 (Taylor) Mixed beverage ratio;

SB 373: (Ebbin) Mixed beverage ratio;

SB 488 (DeSteph) Mixed beverage ratio;

SB 489 (DeSteph) Mixed beverage ratio;

5. Alternative Approaches to Current Ratio.

You will recall that at its first meeting, the Joint Subcommittee expressed concern that the current 45 percent food-to-beverage ratio was difficult to understand and apply. The Joint Subcommittee seeks to simplify the current food-to-beverage ratio by exploring alternative approaches with the goal of simplifying the process for mixed beverage licensees and the Department of Alcoholic Beverage Control, bringing rules of compliance up to date with the marketplace, avoiding a proliferation of establishments that sell mixed beverages, and addressing public safety concerns.

6. Public Comment.

7. Discussion.

8. Other Business.

9. Set Future Meeting Dates.

¹ Summaries of the following bills may be found in Appendix A

As part of the suggested study plan, the Joint Subcommittee concurred with staff recommendations to meet as follows:

- Four meetings during the 2016 Interim
- Second Meeting: May/June
- Third Meeting: August/September
- Final Meeting October/November

(Reminder: Meetings may only be scheduled on Monday, Tuesday, and Wednesday of the first and third full weeks of the month.)

13. Adjournment.

Special Joint Subcommittee Membership

Delegate Barry Knight, Co-Chair	Senator John Cosgrove, Co-Chair
Delegate Todd Gilbert	Senator Bryce Reeves
Delegate Dave Albo	Senator Bill DeSteph
Delegate Luke Torian	Senator Rosalyn Dance

Staff

Maria J.K. Everett, Senior Attorney
David May, Staff Attorney
Eric Bingham Senate Committee Operations

**APPENDIX A
RATIO BILLS REFERRED FOR STUDY
BILL SUMMARIES**

HB 171

Albo

Alcoholic beverage control; food-beverage ratio for certain mixed beverage licensees.

Provides that for persons holding a mixed beverage restaurant, caterer's, or limited caterer's license, in calculating the minimum 45 percent ratio of food to mixed beverage and food, such licensees shall include the gross receipts from the sale of nonalcoholic beverages served on the premises in calculating the gross receipts from the sale of food. The bill provides that it declarative of existing law.

HB 219

Taylor

Alcoholic beverage control; food-beverage ratio.

Reduces from 45 to 25 percent the requirement for mixed beverage restaurant licensees for the ratio of combined gross receipts from the sale of food consumed on the premises and nonalcoholic beverages served on the premises and the combined gross receipts from the sale of mixed beverages, food, and nonalcoholic beverages. The bill provides that gross receipts be calculated on the basis of the price that the licensee paid for the food, nonalcoholic beverages, or mixed beverages sold, rather than the price at which the licensee sells such items to consumers.

SB 373

Ebbin

Alcoholic beverage control; food sale requirements. Provides that a business may be considered a restaurant for purposes of mixed beverage licenses if it regularly sells foods, rather than meals, prepared on the premises. The bill also provides that in calculating the gross receipts from the sale of food for purposes of the food-to-beverage ratio, mixed beverage restaurant licensees, mixed beverage caterer's licensees, mixed beverage limited caterer's licensees, and limited mixed beverage restaurant licensees shall include the gross receipts from the sale of nonalcoholic beverages.

SB 488**DeSteph****Pilot project for mixed beverage licensees of the Alcoholic Beverage Control Board; alternative calculation for the 45 percent food-to-beverage ratio based on price paid by the licensee.**

Creates a two-year pilot project that directs participating mixed beverage restaurant licensees to calculate the required food-to-beverage ratio (i) on the basis of the price such licensee paid for the food, nonalcoholic beverages, and mixed beverages sold and (ii) on the basis of the price such licensee sold such food, nonalcoholic beverages, and mixed beverages to patrons. The bill provides that participating licensees shall be deemed to be in compliance with law if they meet the required food-to-beverage ratio based on either of the above calculations. The bill also requires participating licensees to serve food during any period of time mixed beverages are served and allows the Alcoholic Beverage Control Board to summarily suspend the license of participants for 24 hours for violation of this requirement.

SB 489**DeSteph****Alcoholic beverage control; food-beverage ratio.**

Provides that a mixed beverage restaurant licensee meets the required food-beverage ratio if its gross receipts from the sale of food and nonalcoholic beverages amount to at least (i) \$5,000 per month or (ii) 25 percent of the gross receipts from the sale of mixed beverages and food. The bill also provides that mixed beverage caterer and limited mixed beverage caterer licensees meet the required food-beverage ratio if their gross receipts from the sale of food and nonalcoholic beverages amount to at least 25 percent of their gross receipts from the sale of mixed beverages and food. Under current law, mixed beverage restaurant, mixed beverage caterer, and limited mixed beverage caterer licensees' gross receipts from the sale of food and nonalcoholic beverages must amount to at least 45 percent of their gross receipts from the sale of mixed beverages and food. The bill also requires such licensees to serve food during any period of time mixed beverages are served and allows the Alcoholic Beverage Control Board to summarily suspend a license for a maximum of 24 hours for failure to comply with this provision.

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