

## Department of Planning and Budget

### 2018 Fiscal Impact Statement

**1. Bill Number:** HB 654

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Murphy

**3. Committee:** House Committee on General Laws

**4. Title:** Distiller licensee commission on sales

**5. Summary:** The proposed legislation requires the Alcoholic Beverage Control Authority (the Authority or ABC) to pay a licensed distiller a commission of 25 percent of the retail price of any spirits sold by the distiller at a government store on his licensed premises. It also prohibits the Authority from imposing a markup when reselling such spirits to the licensee. The bill would allow government operated on distiller's licensed premises to open on Sundays after 10:00 a.m. and allows licensed distillers to include samples mixers consisting of other alcoholic beverages not manufactured on the licensed premises. Finally, the bill would increase the number of banquet licenses for special events a licensed distiller may purchase per year from four to eight and allows the licensee to sell samples of spirits at such events.

**6. Budget Amendment Necessary:** Yes, Item 385

**7. Fiscal Impact Estimates:** Preliminary (see Item #8)

**8. Fiscal Implications:** The increase in commission percentage would result in a decreased of profit returns to the Commonwealth. A distillery license allows for the manufacture of distilled spirits and the sale of the manufactured spirits to ABC, the government, or any entity outside the Commonwealth of Virginia legally authorized to receive the product. ABC is the wholesale distributor and sole retailer for all distilled spirits sold in Virginia. The proposed legislation would require ABC to pay licensed distillery stores a 25 percent commission. Distillery stores began in Virginia in 2006. From FY 2006 to FY 2016, distillery store commissions were based on the amount of gross sales as shown in the table below:

Gross Sales	Commission
\$250,001 or greater	7%
\$100,001 to \$250,000	10%
Less than \$100,000	15%

As a cost savings measure, commissions were briefly eliminated from July to September 2015. However, they were re-instated in October 2015, at a flat 8 percent regardless of sales volume. In addition to 8 percent commission, ABC now reimburses distillery stores the \$2 case handling charge on bottles sold at their stores. In FY 2017, ABC reimbursed approximately \$300,000 in commissions and \$33,000 in case handling charges.

Currently, Virginia distillers submit distillery store sales and inventory information to ABC, and it processes the commission payments manually. ABC manually tracks sales, verifies bottle price and tracks inventory. As a result of the growth in distillery stores in recent years (see table below), and the anticipated continued growth in this sector, ABC will likely need a part-time staff in FY 2019, and a full time staff by FY2021. The estimated cost for a part-time staff is approximately \$36,000 and the estimated cost of a fulltime staff is \$71,450. The ABC Information Technology modernization program currently underway includes a future project to automate portions of the commission process. Once this automation is completed, the additional staff resources would no longer be necessary.

<b>Fiscal Year</b>	<b>Number of Distillery Stores</b>
2010	4
2014	9
2017	28
2018 (to date)	38

According to ABC, the projected fiscal impact of this legislation is based on the following assumptions:

- Licensed distillers would pay the 20 percent spirit tax when purchasing bottles from Virginia ABC to use for customer sampling;
- Roughly 20 percent of current distillery store sales are from distillers purchasing bottles from Virginia ABC at full retail price for resale to customers as samples; and
- Distillery stores sales were re-forecasted based on assumptions 1 and 2

In FY 2017, the total of commission payments equated to 8 percent of ABC's sales revenue leaving ABC a rate of return of 40.5 percent on gross distillery store sales. However, under the proposed legislation, the rate of return drops to 4 percent for those bottles purchased by the distiller for resale as customer tasting samples. Accordingly, the increase in commission to 25 percent would result in a decrease of profit to the general fund.

If this legislation is enacted, the commission ABC currently pays to distillery stores would increase by 17 percent over the current rate. After factoring in a reduced total sales figure as a result of distiller's being able to purchase products for tastings at wholesale, ABC projects their annual commission payment expense will increase by \$1.1 million in FY 2019 and increase to \$2.9 million by FY2022. Accordingly, the increase in commission to 25 percent would result in a decrease of profit to the general fund.

According to ABC, increasing the number of permissible banquet licenses from four to eight per year would increase the number of investigations by ABC compliance agents and adds an additional \$5,000 in agency costs.

It is not possible to estimate the fiscal impact from increased Sunday hours since hourly sales figures are not provided to Virginia ABC nor is it possible to determinate the impact of not

charging the distiller for the bottles purchased for tasting. The data necessary for these calculations is not tracked and reported to ABC.

**9. Specific Agency or Political Subdivisions Affected:** Alcoholic Beverage Control Authority

**10. Technical Amendment Necessary:** No

**11. Other Comments:** Same as SB486